588 Another factor which has certainly had some influence in
bringing about attachments of outsiders to groups of agnatic kin
other than their own is the custom of concubinage, the different
[591] forms of which I describe in detail later. It is a very common practice for widows to leave their dead husbands' homes and to take
lovers in the villages of their parents, or to go to reside in the
[593] villages of their lovers. When they do so they take their young
children with them, and though the sons almost invariably return to their paternal homes before initiation, they have grown up in the homes of their maternal kinsmen, or of their foster fathers' kin, and may have so strong an affection for them that they later return to reside with them, at any rate for a time, when they are married men and their own masters.

Widows, whether living in their maternal villages or in their dead husbands' villages, attract lovers, sometimes from the village, sometimes from a neighbouring village. In either case a new social tie is established, and the lovers may continue to cohabit with the widows as members of their communities for long periods and nurture the children they beget by them. A poor man is only too glad to obtain a housekeeper and mate without expense by means of either widow-concubinage or unmarried concubinage, and if he is an unadopted Dinka he may remain with the concubine and his children by her.

There are in Nuerland a considerable number of unmarried concubines. The sons they bear to lovers become the legal children of these lovers by payment of cattle, but they do not feel so securely attached to the homes of their fathers as do children born of the union of marriage, and there is a tendency for sons of the same woman by different fathers to stick together, usually wherever their mother may be, especially if the fathers are dead or if they do not possess large herds.

591 There are two other facts to be taken into consideration. Among Nuer it is not uncommon for a man to make his home among his wife's people, though in my experience a true Nuer usually returns to his own people eventually. As I have explained, sons-in-law who live with their wives' people are often Dinka, and Dinka are likely to remain with their affines, as they may have no kin of their own to return to; but one also finds Nuer in the same position. These may be persons who for one reason or another prefer to live apart from their paternal kin, or they may be poor men who cannot afford to pay the full bridewealth, part of which is forgone by the

601

'*gaatnara*', 'sons of my maternal uncle', though in the usual Nuer fashion they all addressed each other as '*demar*', 'my mother's son'. Later Tiop brought to live at Mancom his legal *wac*, his pater's sister, also called Kur, from Lak tribal country. This Kur had a daughter called Buk who had married a husband, Ghuth, and had borne him a daughter, Nyangaagh, before leaving him on account of ill treatment to go to live in the country of the Luac Dinka from which her mother's people had originally come. There she lived as concubine to Deng Wol, to whom she bore a daughter and two sons. All efforts by her husband to secure her return failed, and though he seized Nyangaagh and brought her back to his home she ran away and returned to her mother. Later, in a year of famine, Tiop's brother Gac brought Kur and her daughter Buk and Buk's children to live at Mancom. Ghuth contented himself by taking the cattle on the father's side on the marriages of Buk's daughters.

The eldest of them, Nyangaagh, was married by a woman, Jaak-Lim, to the name of her dead brother. The father of Jaak-Lim had two daughters at the time of his death, Buk and Nyanthal. His widow became concubine to Leau-Maleagh, to whom she bore a third daughter Jaak who, as already stated, married Nyangaagh, Tiop's *nyanyawac*, paternal aunt's daughter's daughter. Jaak had herself been previously married to Luak-Tot and had borne him two children before his death. She called in Nyok, the son of her genitor, to give her, or rather to give her dead brother, children by Nyangaagh.

It will thus be seen that to Tiop and his brothers the immediate and intimate circle of kinsmen among whom they live and share their daily experience are the clusters of kin around their paternal aunt Kur and Tiop's natural paternal aunt of the same name. It is for this reason that in giving me the connexions of his family Tiop always stressed the female links which united him to those around him and neglected the names of the husbands of these women, for they had little interest for him.

601
588 ●

The genealogical chart of Tiop's immediate social milieu,[1] contains examples of several different types of union other than matrimony in the ordinary sense, ghost-marriage, widow-concubinage, woman-marriage, and a variety of unmarried concubinage, and will serve as a starting-point for an examination of these diverse unions which have so important a place in the social life of the Nuer.

[1] [cf. cat. 116, p. 105 -- Analyst]

MARRIAGE

581 The ordinary Nuer marriage is a union such as we understand matrimony to be in our own civilization, with this difference perhaps, that the Nuer do not consider the union to be complete till a child is born to it. As we have seen, a Nuer union of this kind is instituted by payment of cattle and the performance of nuptial ceremonies. It is to this type of union that I refer when I speak of marriage without qualifications; and when I use the word family in an unqualified sense I refer to the partners to such a union and the children born to the wife in the union (but not necessarily begotten by the husband). However, since the terms marriage and family are also used in this book in a qualified sense to refer to other unions and groups, I sometimes speak of a simple legal marriage and a simple legal family to avoid confusion or to point a contrast.

595 When a man marries two or more women there results a complex legal family, which we call a polygamous family, in which are comprised several simple legal marriages with the male partner the same in all of them. I discuss some of the features of polygamous marriages and families in the following chapter.[1] They present no immediate difficulties.

588 What seems to us, but not at all to Nuer, a somewhat strange union is that in which a woman marries another woman and counts as the pater of the children born of the wife. Such marriages are by no means uncommon in Nuerland, and they must be regarded as a form of simple legal marriage, for the woman-husband marries her wife in exactly the same way as a man marries a woman. When the marriage rites have been completed the husband gets a male kinsman or friend or neighbour, sometimes a poor Dinka, to beget children by her wife and to assist, regularly or when assistance is particularly required, in those tasks of the home for the carrying out of which a man is necessary. When the daughters of the marriage are married he will receive for each a 'cow of the begetting' and more beasts if he has played any considerable part in the maintenance of the home. We may perhaps refer to this kind of union as woman-marriage.

A woman who marries in this way is generally barren, and for this reason counts in some respects as a man. She acquires cattle through the marriages of kinswomen, including some of those due to uncles on the marriage of a niece, or by inheritance, since she counts as a man in these matters. A barren woman also often

[1] [cf. cat. 116, pp. 127 ff. -- Analyst]

588 practises as a magician or diviner and thereby acquires further cattle; and if she is rich she may marry several wives. She is their legal husband and can demand damages if they have relations with men without her consent. She is also the pater of their children, and on the marriages of their daughters she receives 'the cattle of the father', and her brothers and sisters receive the other cattle which go to the father's side in the distribution of bridewealth. Her children are called after her, as though she were a man, and I was told that they address her as 'father'. She administers her home and herd as a man would do, being treated by her wives and children with the deference they would show to a male husband and father.

A very common feature of Nuer social life is a union I have called ghost-marriage. If a man dies without legal male heirs, a kinsman of his or the succeeding generation—brother, natural son, paternal nephew, or, where a man has, in the absence of lineal heirs, inherited cattle from his mother's brother, sister's son—ought to take a wife to his name.

611 Except in the case of a barren woman and in the special circumstances and manner mentioned on page 16, where it might be said that in a sense she does so, a daughter does not carry on the lineage of her father. She becomes one of her husband's people and her children belong to his lineage. Hence Nuer say: '*Nyal, mo ram me gwagh*', 'A daughter, that is an unrelated person.' As the Roman lawyers put it, she is *finis familiae*, the terminus of the family. But a man's name must continue in his lineage, and Nuer consider it very wrong if a man who dies without male heirs is not married a wife by a kinsman who will raise up seed to him by her so that he will be remembered in his sons. This is a most elementary obligation of kinship, and if it is neglected the dead man's ghost may haunt his kin.

588 In speaking of these ghost-marriages Nuer say, for example, that '*ce deman kwen ciek*', 'he–his brother–married–wife' ('he married his brother a wife'). This is a clumsy and ambiguous expression in English, so I shall speak of a man marrying a wife to the name of a dead kinsman, it being understood that it is not he, but the dead man, who is the legal husband. Nuer also speak of a man 'kindling the fire' of his dead kinsman, a euphemism for raising up seed to him.

This is a vicarious marriage, the vicarious husband acting as

●588 though he were the true husband in the marriage ceremonies and afterwards in cohabitation and domestic life. In all but the strict legal sense he counts as husband and father in the family. He has the same legal rights over the wife as her husband would have were he alive, and he exercises the same authority over the children when they are minors as their pater would do. While the children are small, at any rate, one cannot observe any difference in sentiment and behaviour between a ghost-family and a simple legal family. It is only when the sons grow up that their connexion with their pater becomes significant. In everyday usage people speak of the living man as though he were the true husband and father, so that it is only by inquiring that one discovers the name of the true husband. The name of the pater looms larger when the children grow up, and Nuer told me that it is his name which finally survives in the genealogy of the lineage; but when the pater and the genitor are agnatic kin it is by reference to the name of the genitor that the children will be addressed, except in certain legal and ceremonial situations when it is desired to indicate their correct genealogical position. A child always knows the name of his pater.

Nevertheless, the legal partners to the union are not the man and woman living together. The legal husband is the ghost in whose name the bridewealth was paid and the ritual of matrimony was performed. The woman is *ciekjooka*, the wife of a ghost, and her children are *gaatjooka*, children of a ghost. The family that develops out of a ghost-marriage may be called a ghost-family in acknowledgement of the ghostly status of the pater of the children. It consists of a ghost, his wife, his children born in the union of marriage, and the kinsman who begat these children and acts as father to them. It is a variety of the simple legal family, which is contained in its structure. This is why, Nuer say, a man may not marry a wife to the name of a kinsman of a younger generation, for such a marriage would mean that the wife would cohabit with a man who was her father-in-law.

These ghost-marriages must be almost as numerous as simple legal marriages. Not only do many youths die before marriage but for one reason or another married men do not always have male heirs. A man's wife may bear him only daughters or her sons may die before marriage. In this last eventuality, his kinsmen must raise up seed not only to him but to his sons also, unless they died in childhood. A very common circumstance is that a man takes a

wife to the name of a dead kinsman and is unable later to marry a 588
wife in his own right, for, seeing that he enjoys the material benefits of marriage, his younger brothers must be allowed to marry from the family herd before he can contract a second, and legal, marriage. If he is ever rich enough to marry again he may feel that he must forgo the privilege in the interests of the sons he has raised up to his dead kinsman. He thus dies legally childless and it will be the duty of one of these sons to marry a wife to his name. In a case of this kind, it is more than ever incumbent on his sons to marry a wife to his name because he has died in possession of cattle. These cattle, *ghok jookni*, cattle of the ghosts, are sacred and in the special circumstances ought not to be used for any purpose other than marrying a wife to the name of their dead owner. When Nuer raid a herd to seize cattle in compensation for some injury they will not take cattle reserved for the marriage of a ghost.

Except in the circumstances I have just related, it is usually a younger brother who marries a wife to the dead. As brothers [582]
marry in order of seniority, it is fitting that when it comes to the turn of the dead man to take a wife the brother next junior to him should marry in his name. However, if the next brother is only a paternal half-brother they are likely to leave the pious obligation to a full brother who is yet younger.

The custom of marrying a wife to the name of a dead man makes obvious complications in the kinship system of the Nuer, for a child of the union is both a son of the man who is in the place of his pater and, in virtue of his attachment to his pater, stands also to him in a different relationship: father's brother's son, brother, brother's son, or maternal uncle's son.

A further complication arises when, as occasionally happens, a woman marries a wife to the name of a dead kinsman, usually of a dead uterine brother. It is said: *'Ce rode kwen ciek, ciek thok dwiel man'*, 'She has taken a wife to herself, a wife for the hut of her mother', that is to say, for her uterine brother. The persons involved in a marriage of this kind are the dead man, his kinswoman who marries a wife to his name, the wife, and the man who is brought in to cohabit with the wife. A woman may instead marry a wife herself and instruct the son of this marriage to marry a wife, when he grows up, for her brother (his paternal uncle, since the sister is his pater).

588 Yet more rarely a man marries a wife to the name of a dead sister or other kinswoman who was barren in her life, 'for she then counts as a man'. This is perhaps only done when the dead woman's ghost causes sickness to draw attention to her unhappy condition. The children are called after their female pater, and her brother, who has married their mother to her name, counts as their paternal uncle, 'for his sister has become his brother'. On the marriage of the daughters he gets the cattle due to a paternal uncle. It seems that he must not cohabit with the wife himself, because in these circumstances 'your wife is like your sister' (she stands in the place of your sister), but must arrange for a stranger, perhaps a Dinka, to cohabit with her in the hut he builds for her in his homestead.

587 Another type of union, and one that might be expected in a society which has ghost-marriage, is the levirate. Among many African peoples a widow is inherited by her dead husband's brother or son and becomes his wife. This is not the case among the Nuer. With them the bonds of marriage are not severed at death. The widow remains the wife of her dead husband, and any children she may bear after his death, by whomsoever they are begotten, count as his children. Hence Nuer never allow one to use the word *kwen*, to marry, in reference to the taking of a deceased brother's wife. They themselves usually say of the brother that '*ce ciekdeman lath dwil*', 'he has provided his brother's wife with a hut'. She is still the wife of her dead husband and therefore cannot be remarried. Indeed, I found great difficulty in making the Nuer understand that in our country it is possible for a widow to remarry.

The levir is normally a brother, and a brother is the most approved substitute for the dead man. If a young man dies his sons would not be old enough to take his widow, and he is most unlikely in any case to have another wife than their mother. When an old man with several wives dies, the wives, being as a rule senior women, may be past child-bearing and therefore wish to live with their children, or they may prefer to lead an independent life with lovers than to live with a kinsman of the husband. It is only when an old man dies who has lately married a young wife, who has not yet borne a child or has borne a single child, that a son takes his father's wife. By this time all the father's brothers will have married; and it was probably understood at the time of the old

589 lovers, so that, as we have earlier noted, it often comes about that children are brought up among their maternal kin. Many widows neither remain for long in the homes of their dead husbands nor in the homes of their own kinsfolk, but after a while go to live with lovers, sometimes in different districts and even in different tribal areas. Relations between a widow and her lover tend to be unstable, and she often abandons one lover to take another. She may wander from place to place. If her children by her husband are small she takes them with her, so during childhood they are members of the households of her lovers, who act as their foster-fathers. Thus a widow may go to live with a lover accompanied by children begotten both by her husband and by former lovers. Some old widows, long past child-bearing, live with men to cook for them, the man having no wife and the widow no adult children to look after her.

588 When a widow lives with a man who is not of her husband's kin we have a different kind of union to that of leviratic marriage. Indeed, it cannot be regarded as marriage in any sense, but must be regarded as a form of concubinage. I call it widow-concubinage. A widow-concubine—that is to say, a widow who takes a stranger for a lover—is called in Nuer a *ciek ma lak*, and a child of such a union is called a *gat laka*, a child of concubinage. The structure of the original simple legal family remains unimpaired, however much the configuration of the household may change: it consists throughout of the wife, the husband who married her with cattle, and the children of the wife. Whoever begets these children, their pater is the husband of their mother. The *concubinus* does not stand in the place of the husband and has therefore no authority over the wife. He cannot compel her to live with him—she goes from man to man or has a succession of lovers in her own home as she feels inclined—and he has no redress if she has relations with other men while she is living with him. His position is thus very different from that of a man living in leviratic marriage. Likewise, he has no legal control over the children, who can be taken away from him by the kin of their pater whenever they choose to remove them. He is only their genitor, and his sole right in them lies in the obligation of their paternal kin to pay him a 'cow of the begetting' when each of his natural daughters by the widow is married. His position in this respect also is very different from that of a levir. A brother stands in the place of the pater, a lover

does not. Consequently the group that results from the union of widow-concubinage, when children are born of it, must be regarded as a natural family and not, as in the cases we have hitherto been considering, a variant of the legal family.

There is another kind of domestic union to which I must allude in this place, because it corresponds to widow-concubinage in all respects but one: that the wife is not a widow. A man marries a wife who for some reason is not content to remain with him after she has borne him a child, and she leaves him. Her family are not prepared to pay back to the husband's people the cattle they have received from them, either because they cannot do so or because they consider that the breach is the husband's fault and not their responsibility. They tell the husband to let their daughter bear him children 'in the bush'. He may then have to acquiesce in his wife living with another man in some distant village. He is in any case the pater of any children she may bear to other men. She is still his wife, since his cattle are 'on her back', but nevertheless he cannot claim compensation for adultery, for she is living apart from him in circumstances which may not have his approval but which he has perforce to accept. The union between his wife and her lover can be classed as a variety of widow-concubinage, though Nuer tend to speak of her as a simple concubine.

In all the forms of union I have so far described—simple legal marriage, woman-marriage, ghost-marriage, leviratic marriage, and widow-concubinage—the woman is always legally married and all her children belong in virtue of her marriage to her husband's lineage. I now describe a type of union in which the mother is not married to any man, and which may perhaps be called unmarried concubinage or simple concubinage. A girl is dissatisfied with the man to whom she has been espoused and provokes a divorce, if such it can be called, before she has borne a child. This may happen a second time with a second husband, and her parents, finding that they cannot control their daughter, let her do as she pleases. This may mean allowing her to live with a man of whom she is fond but who cannot, or will not, marry her with cattle. Other women of this category are those who have borne children while maidens and have never afterwards been married. An unmarried concubine is called by Nuer a *ciek ma keagh*, and a child by her is known as a *gat keaka*. Their definition of her status is that 'she has no cattle on her back'. 'A *keagh* is a woman

588 from whose back cattle have been returned.' Either the cattle paid for her have been sent back to her husband's people or she was not at any time married with cattle. These concubines often spend a few years with one lover and then a few years with another. They move from village to village, taking their infants with them. I found unmarried mothers in every Nuer village where I made inquiries; and I have known an unmarried concubine bear eight children by as many as seven different men.

Those unmarried concubines whom I have known personally have been women of strong character who valued their independence and did not desire matrimony. Nuer recognize that they are temperamentally unfit for normal married life and are unlikely to [848] settle down till they are old. Their behaviour is not stigmatized as immoral, but they are not so highly esteemed as wives and in a quarrel their children may suffer the reproach of bastardy. Also, an unmarried concubine cannot expect the same support from her kinsmen in domestic disputes as a wife can expect. What a wife can demand as a right, a concubine can only ask as a privilege. It does not follow that a man treats a concubine differently to a wife, and one cannot know in a household who is wife and who is concubine by bare observation of behaviour. Indeed, a man may treat a concubine with more consideration than a wife, for he has only what control over her his personal influence gives him. He cannot claim compensation should she be unfaithful to him, and he cannot restrain her should she wish to leave him for a new lover.

588 848 He has, however, undisputed right to legitimatize any children she may bear him by paying for each child a fee of from four to six head of cattle to her parents—they are not divided among the kin. This fee (*ruok*) is not bridewealth. It gives him no rights in the woman nor in any further children she may bear to him or to other men. Children born of a concubine by different men become in consequence members of different lineages. If a concubine leaves one lover to live with another she takes her small children by the first with her to the second, but they will eventually be claimed by the man who by payment of cattle is their pater. By payment of a fee the genitor becomes the pater also.

588 It is, of course, possible for a man to legitimatize his union with a concubine by payment of bridewealth, but though he will almost invariably legitimatize his children, he is seldom eager to marry their mother, because experience has taught Nuer that a woman

who leaves one man is likely to leave another. However, some 588
women become concubines through misfortune, and not by choice, and are not unsuited or averse to the married state. A girl becomes pregnant in courtship and her swain has no cattle with which to marry her, or a young mother, unhappy when she comes to live in her husband's home, runs away from him and her bridewealth is returned. In such circumstances a lover may well be prepared to pay bridewealth for her, though fewer cattle than he would pay for a maiden, and to go through the nuptial rites with her, so that he may have full legal rights in her and in all children she has borne or may bear to him or to any other man. The *ciek ma keagh,* unmarried concubine, then becomes *ciek pany,* a true wife. It sometimes happens too that a youth makes a girl pregnant and would like to marry her but has insufficient cattle. He pays what cattle he can get together, and the girl's people let him take her on the promise that he will pay the rest when he is able to do so; but they refuse to solemnize the marriage, so she is regarded as a sort of concubine. The marriage rites may not be performed till years afterwards, sometimes not till just before the marriage of her eldest daughter. Then the wedding dance is held and the cattle are blessed to make an honest woman of her, as we would say. Till then she can only be described as half-concubine, half-wife.

We may perhaps speak of an unmarried woman, the man with 588
whom she lives, and the children she bears to him in his home as 594
a simple natural family in contrast to a simple legal family. We cannot deny that this group is some kind of family, for its members live together in a common household on the pattern of a simple legal family, at any rate for some years. But whereas in the simple legal family the tie between pater and child is derived from the tie between husband and wife created by payment of bridewealth, in the simple natural family it is a direct tie created by payment of cattle for the child and not for the mother. We may compare the simple natural family also with the kind of family that springs from widow-concubinage. This last is a complex group in that the woman and the children she bears to her lover belong not only to the natural family of a man, his mate, and their children, but to a different, and legal, family as well. The genitor can never pay a fee to become pater of his natural children. When a man begets children by an unmarried woman there is no

588 legal family in opposition to this natural family and the genitor
594 can become pater to the children. If the woman leaves him, his position is then equivalent to that of a man who has divorced his wife, but has left part of the bridewealth with her family to retain his children.

842 It is clear from the facts I have recorded that Nuer do not attach great importance to physiological paternity. Men prefer to beget their own sons, but it is not ignominious to nurture children begotten by others. Nuer pay little regard to the manner of begetting so long as the legal fatherhood of the child is well established. This is particularly evident in their ideas about adultery, and a consideration of them will serve also to emphasize that Nuer acknowledge social and mystical links between a child and his natural father.

837 It is adultery if a man has relations with another man's wife, including ghost-wives and leviratic wives. I was struck among the Nuer both by the frequency of adultery and the infrequency of quarrels or even talk about it. Nuer seem to treat the matter lightheartedly, and not to be at all ashamed of their adulteries. In speaking of adultery, it is the risk of being speared or clubbed if caught in the act, or having to pay compensation to the husband if he finds out what is happening, that they bring to the fore. Adultery in their eyes is an illegal but not an immoral act.

684 The legal position is as follows. When a husband has proof of his wife's infidelity he may claim compensation of six cows and, as the adulterer's kin are unlikely to support him, the husband will probably, if the two men live in the same district, receive the cattle. Nuer regard adultery in the husband's home as a more serious offence than adultery in the bush because they believe that it is more likely to cause the husband sickness. Adultery is a double damage: it is an infringement of rights and it can injure the husband's health.

If after the six head of cattle have been paid a healthy child is born of the adulterous congress, five of them must be returned, because 'the cattle and the child must not meet in one place'. Otherwise, the cattle paid in compensation partake of the nature of a legitimatization fee and hence give the genitor a claim on the child. The birth of a child seems to be thought to change the compensation for an adultery (*ruok*) into a fee for legitimatizing a child (also *ruok*). I only discovered this convention after I had left

582 For completeness it must be mentioned that a leopard-skin
624 chief may not marry into the family of another leopard-skin chief, even though they are unrelated. It is said 'Their blood is still in the earth and in the leopard-skin' and as they all walk on the earth and wear the leopard-skin they have a kind of blood relationship. This rule can be related to that which prevents a leopard-skin chief from performing his usual ritual functions in cases of homicide if the parties to such a case both belong to families of leopard-skin chiefs. It has no great significance for the present discussion, because leopard-skin chiefs who live near enough to one another to marry into each other's families are likely to belong to the same clan.

582 The exogamous rules I have recorded above can be generalized by saying, as the Nuer do, that a man may not marry a woman who is *mar*, kin, to him. In defining exogamy kinship is traced farther in some directions than in others and is of different kinds: the clan kinship of the *mut*, the common spear; the kinship of *buth*, of collateral lineage and of adoption; uterine kinship; kinship through the *genitor*; the kinship of cognation, *mar* in the usual sense of the word; kinship which the birth of a child creates between husband and wife; the kinship acknowledged by acceptance of bridewealth; and the kinship by analogy of the *ric*, the age-set, and the *twac*, the leopard-skin.

In this essay I am stating the rules of exogamy, and it is sufficient to say that in borderline cases they allow of some latitude in interpretation without going into further detail than is required to record the grounds on which latitude is sometimes allowed. Cases arise in which there is disagreement whether or not the genealogical distance between a suitor and the girl whom he wishes to marry is wide enough to permit marriage. If it is permitted a beast will generally be sacrificed to cut what kinship there may be held still to be between them. In doubtful cases it may be taken into consideration that some of the links between the pair are those of adoption or of ghost-parentage and not of consanguinity. Also, if there is some doubt about the correctness of a union it is sometimes held to be less questionable if the bride and bridegroom do not belong to the same residential groups. Exceptions to the general principles of exogamy do not invalidate them, for the rules are acknowledged even in
582 the breach of them. Thus I have known of a peculiar marriage
588 into the clan in which, on the day of the wedding, tribute was

paid to the prohibition on intra-clan marriage by omitting the 582
traditional calling out of the spear-names of bride and bride- 588
groom at the invocation of the ghosts.[1]

INCEST

It is not incestuous for a man to have relations with the 835
daughters of men of his father's age-set and he would not hesitate to make love to them. In all other cases where it is forbidden for a man to marry a woman standing in a certain relationship to him it is also forbidden to him to be intimate with her, though the prohibition has not always the same force or extension. Before discussing the different degrees of seriousness with which Nuer view breaches of the various rules I will mention the other relationships which carry the incest taboo besides those already recorded which exclude marriage either absolutely or contingently.

Nuer consider it to be *rual* for a man to have relations with the wives of any close living kinsmen, except, as is explained later, the wives of some patrilineal kinsmen. The worst incest of this kind is with the wives of the father (even if he is a ghost-father), uterine brother, son, and maternal uncle. It is considered almost as bad as relations with a sister and entails the same consequences. Relations with the mother's co-wife (father's wife) are thought to be unusually shocking because the father has relations with her and afterwards with the mother, carrying the son's contact with the co-wife to the mother. It is also *rual* to have relations with the wives of the sons of the maternal uncle and of the paternal and maternal aunts. Relations with the wives of affines, such as a second wife of the sister's husband, are also regarded as incestuous. It is only congress with wives of the paternal uncles, paternal half-brothers, and paternal cousins, which are spoken of without opprobrium. The worst that is said about congress with the wives of these kinsmen is that it is a *rual ma tot*, a slight incest, which will not injure the partners to it. It might harm the women's babies, but it is thought that even this penalty can be

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[1] The husband was the son of a man of the Gaatnaca clan but had been begotten in ghost-marriage by his *pater*'s sister's son, a man of the Gaatgankir clan. The wife's *pater* was a woman of the Gaatnaca clan (of a different lineage). She had married a 'wife' to raise up children to herself by an unrelated man. In spite of there being no consanguinity between husband and wife the marriage could not have taken place had the wife's *pater* been a man. As it was, it was subjected to criticism.

'Ghost-Marriage'

588 It is an accepted rule among the Nuer that if a man dies before he is married or dies without male issue one of his kinsmen, often his 769 brother, must marry to him a wife. This is one of the strongest mutual obligations of kinship.[1] It is considered essential that a man should have an heir who can carry on his name and 'keep it green' in order to further the interests of the lineage in posterity. To die without male issue amounts to oblivion. Female children do not count since their offspring belong to their husbands' lineages, as in any patrilineal society.

This obligation of kinship is nearly always carried out when sufficient cattle are available. Failure to observe the obligation would mean restlessness on the part of the dead man's spirit, who would bring evil (*cien*)[2] upon his kinsmen.

588 The main characteristics of 'ghost-marriage' are as follows:

(1) It is the dead man, to whose name the wife is married, who is considered the legal father of the children. The ritual processes of marriage are performed in his name, and the bridewealth is paid on his behalf. Therefore, while he is not the physiological father of the children, he is their legal father, and it is from his name that they trace their descent.

(2) The man who marries a wife to the name of his dead kinsman is father in all roles and is in every respect the husband of the woman except in the strictly legal sense.

(3) The physiological father fulfils all the domestic duties of husband and father. In this respect the characteristics are the same as in a normal legal union, and it is only by enquiry that his true legal status can be discovered.

(4) On enquiry, though not in normal circumstances, the wife will be called *ciek jooka*, 'ghost-wife', and the children will be called *gaat jooka*, 'children of a ghost'.

(5) Since the husband is a substitute for his dead kinsman and performs all ritual and domestic obligations on his behalf, the features of a simple legal marriage are found in the structure of this form of union.

(6) The behaviour and obligations of the pro-husband are indistinguishable from those of a man who is both legal and physiological husband and father.

For purpose of definition, the legal father of children will be referred to as *pater* and the physiological father as *genitor*. The difference therefore between a simple legal family and a 'ghost family' is that the former consists of a man who is both *pater* and *genitor*, a wife, and the children born of that wife, while the latter consists of a 'ghostly husband', who is the *pater* and legal husband, a vicarious husband who is the *genitor*, a wife and the children borne by her. 588

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[1] The Nuer expression is '*ce deman kwen ciek*', lit. 'he his brother married a wife'.

[2] *Cien:* A spirit which haunts or is restless. See also under Homicide, p. 60, n. 1.

Since mortality among males is high[1] 'ghost-marriage' is extremely common and, in an analysis of the marital unions of Nuer, will be found nearly, if not quite, as common as simple legal marriage.

Categories of Persons on whose behalf 'Ghost-Marriages' are made

(1) As a general rule, the system is not usually carried back more than one generation. A man would not marry a wife for his grandfather or grand-uncle. It was the duty of his father or uncles to do so.

(2) Kinsmen for whom a wife may be married are: brothers, paternal uncles, maternal uncles, and fathers.[2] The system, except in the case of brothers, is not usually reversible. That is to say, a man would not marry a wife to the name of his son because he would then assume the status of both husband and father-in-law to the wife, which would be incestuous. A man may marry his maternal uncle a wife, but a maternal uncle would not marry his sister's son a wife.

(3) Only kinsmen are expected to marry a wife to the name of a dead man.

(4) In exceptional cases a wife is married to the name of a female relative, but usually only in the case of barren women, who are counted as men and provide a link in the paternal line. 588 842

(5) An old woman, especially if she has no paternal relatives living and has the cattle required, will marry a woman to the name of one of them in order to reopen the line. She will invite some unrelated male to act as husband and as *genitor* of the children. In this case the legal husband will be the dead kinsman, whose interests will be guarded by the woman. Sometimes a woman will marry a wife to the name of her dead husband if she has no children and is herself beyond the age of child-bearing. She will do this if she has cattle which are legally the property of her dead husband and there are no heirs in the paternal line to whom they would normally pass.

(6) Sometimes an old man, or one who is impotent, will marry a wife to himself and invite another man to act as *genitor*. This is not

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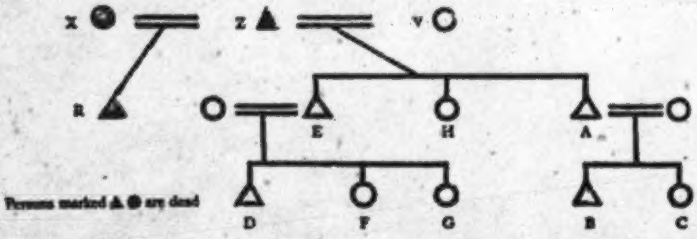
[1] The rule applies also to males who die even before they reach marriageable age. An infant is sometimes regarded as a personality in the lineage structure, but not usually before it has cut its second teeth. If it dies before that event, it may be buried without the normal mortuary ceremonies, in which case its name will not continue. After that age it is of more significance in the lineage and 'ghost-wives' are sometimes married to the names of small boys, but usually in a later generation when the boy (whose age on death is no longer remembered) becomes a paternal uncle.

[2] A son will sometimes marry a wife to the name of his father if it is considered that his father had insufficient male issue.

588 842 'ghost-marriage', because the legal husband is still living, but the functions of the *pater* and the *genitor* are similar to those found in 'ghost-marriage'.

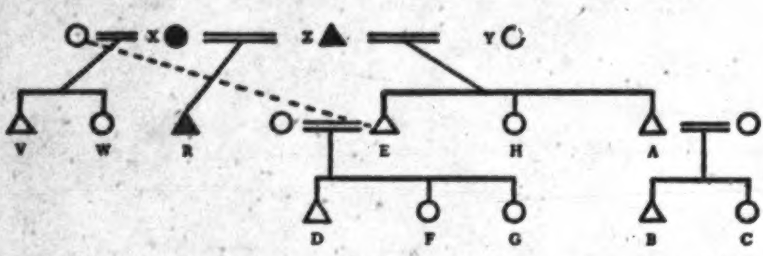
'Ghost-Marriage' and Bridewealth

588 Although 'ghost-marriage' is an obligation of kinship, it is obvious that not all men who die without issue are honoured in this fashion. There are too many considerations to make generalization possible, but it seems that the first consideration is the configuration of the lineage. If it is ill-balanced and there are many categories of relatives who simply do not exist, this must be remedied. It is ill-balanced if, for example, a man has no half-brothers or uterine brothers or persons who will be paternal uncles to his children. This links with the second consideration, which is the number of cattle available for bridewealth, for in many cases a man will, on the marriage of a daughter of the house, receive portions which should have gone to some recognized kinsman who is dead or never existed. This will be more easily understood when the principles which govern the distribution of bridewealth have been mastered. The reader should refer to Section 5 of this chapter. For example:

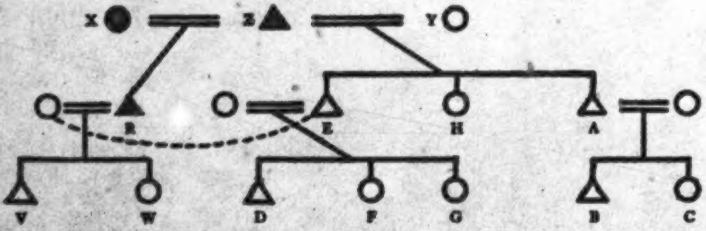


A's father, Z, had two sons E and A by his wife Y. He had one son R by his other wife X. R died without issue. R could have claimed cattle on the marriage of his half-sister H (as *deman kwi gwande*: paternal half-brother), and he might have expected at least some of the cattle which went to his father Z in this marriage (the *ghok gwande*: father's cattle) because it is usual for the major part of this portion of bridewealth to go to the bride's half-brother, i.e. brother by another mother. Again, on the marriages of F, G, and C, he (or his heirs if he had any) might expect the portions called *ghok gwanlen gwande*, 'the cattle of the father's brother by another mother'. Since R is dead and has no heirs, all these cattle must go to A and his brother E or their heirs. They have therefore obtained a number of cattle which would not otherwise have been at their disposal, and one of them, assisted by the other, will marry a wife to Z, their father, so that there will eventually be a collateral lineage descending from him

—the lineage which would have sprung from R had he lived. The configuration will then become:

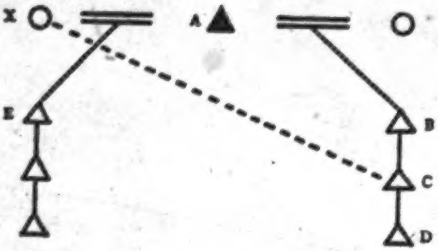


In the initial stages the relations of E (who has married a 'ghost-wife' to his father Z) with V and W will be indistinguishable from his relations with his own children, even though V and W are technically his father's children (*gaat gwan*), and therefore theoretically of his own generation. In normal circumstances he will refer to them as his own children, but their rights in the bridewealth of future marriages will be determined by their legal status in the lineage. The disparity in age will disappear in the next generation. A much more likely alternative, since it will avoid any confusion in status, is for E to marry a wife to R. In these circumstances children born of the 'ghost-marriage' will be legally R's, and hence brother's sons to E and A, and father's brother's sons to their children (*gaat gwanlen*), and therefore no confusion of status or generations will arise. It is also more usual to marry a wife to the brother (rather than the father), because the father already has heirs and ultimately the configuration of the lineage descending from him will be the same. In this case the immediate configuration will be:



It is very unusual for a man to marry a wife in the name of his grandfather or a kinsman of his grandfather's generation because, unless there are many gaps in the lineage, descendants will be too far removed in the lineage structure for there to be a proper reciprocal interchange of bridewealth claims in subsequent generations; e.g. C marries X to his grandfather A. D, son of C, is too far

●588 removed from E (his father's father's father's son) for there to be any interchange.



The reader will realize that many possible configurations may result. As a general rule the object is to create two balanced branches of a lineage descending from the sons of one father: sons of one mother or of different mothers, but with a common father. (As an actual example, see the marriage of Deng Rea to Nyalam Dhor, p. 120.)

The Levirate

587 Bridewealth cattle are not collected by the individual efforts of one man; certain categories of kinsmen co-operate and assist him to get married. Moreover many cattle are held in trust by the family, particularly those inherited by brothers. It is not the legal husband alone who benefits from the domestic and economic services of his wife, and though the children link themselves directly to his name, they are part of the lineage to which he belongs, and his brothers are equally anxious that his offspring shall swell the numbers of their patrilineal group. Therefore, if a man dies, his widow is expected to continue bearing children to his name. Theoretically also she is expected to remain in the vicinity of his near kinsmen and to assist them in normal domestic and economic activities. For both these reasons it is desirable that she should live with one of his brothers or, in certain circumstances, with other categories of kinsmen. The union of a widow with her husband's kinsman does not constitute a remarriage or a 'ghost-marriage': the marriage is already in existence, and legally she is still the wife of the dead man. Any children she may bear after his death are legally his. It merely means that a kinsman, or another man, acts as *genitor* and foster-father of her children.

The levirate is a legal union, and in certain circumstances a man may demand the divorce of his dead kinsman's wife. As will be seen later, this is rarely allowed, and nowadays when the husband is dead a court would only grant a dissolution of the marriage in very exceptional circumstances. Moreover, if an outsider has sexual relations with a widow, her dead husband's kin have a right to demand compensation for adultery unless some previous agreement has been reached between them. The legal husband of the woman and the legal father of her children is still the man who has died. The children will be linked in the lineage of his family to his name, and the legality of the marriage is guarded by his heirs. In his name, his heir or heirs will continue to represent his interests, and indeed those interests are their own as members of his kinship group. This point is all-important in the assessment of rights in a widow in legal disputes which appear before Nuer courts. If, as sometimes happens, the bridewealth cattle are returned to the wife's family in the event of her husband's death, no further rights in that woman are retained by the dead man's heirs; but in this case the legal marriage has been dissolved, and the situation is not really different from normal cases of divorce. 587 [586]

Differences between 'Ghost-Marriage' and the Levirate

(i) A 'ghost-marriage' means that the vicarious husband as legal representative of the dead man actually *marries* the wife in the sense that he collects and hands over the bridewealth cattle for her and performs the marriage ceremonies with her on behalf of the dead man. In the levirate, the kinsman merely enters as a substitute into a marriage which is already in existence. 588 587

(ii) Generally speaking, in the case of the levirate, since the marriage was not actually initiated and negotiated by the pro-husband, he has less control over the widow than he would over a 'ghost-wife'.

(iii) The levirate differs from 'ghost-marriage' in that the legal husband (*pater*) and his widow once lived together as man and wife.

(iv) Although the leviratic family, like the 'ghost-family', consists of the dead husband (*pater*), the pro-husband (*genitor*) and the children born of the woman, the children, or at least some of them, may have been begotten by the dead man. Therefore in a 'ghost-marriage' the dead man is the *pater* but never the *genitor* of the children; in a leviratic union the dead man is always the *pater* and he may have been the *genitor* of all or some of the children. The distinction is emphasized in Nuer terminology: a child begotten by the dead man is known as *ret*, an orphan. A 'ghost-child' is known as *gat jooka*. [594]

The levirate is established by the previous payment of bridewealth cattle. Therefore, unless the bridewealth is returned for some definite misbehaviour on the part of the widow, the simple legal marriage continues after the death of the husband and children born either before or after his death are legally his.

Categories of Persons with whom a Widow lives

The most usual and correct form of leviratic union implies the cohabitation of a woman with her dead husband's brother, and in 587

562 584 dislikes simply because they are avaricious for the many cattle he possesses or wish to link themselves to some important family. More often control is exercised in the form of a prohibition rather than positive compulsion. In other words, although they will not use force to compel her to marry a man she detests, they will not allow her to marry the man she loves if he has not sufficient cattle to provide the bridewealth. Whether or not they will take this attitude depends on a variety of circumstances. Some Nuer girls are headstrong and of independent spirit and will not allow their wills to be thwarted by the conventions of the bridewealth system. They therefore live as they 836 please with lovers of their own choice and without either the sanction 588 of bridewealth or the ritual processes of marriage which go with it.[1] A woman of this sort is known in Nuer as *ciek me keagh*. The circumstances in which a woman becomes a *ciek me keagh* are many. Any woman who lives with a man without payment of bridewealth (either on his own behalf or on behalf of the man who is considered her legal husband) is called *keagh*, but she may not be of the restless independent spirit which characterizes most of these women. She may be a young girl who has borne a child to a man who refuses to marry her, though this is rare, or a woman who simply cannot stand life with the husband of her family's choice and has therefore run away and provoked a divorce.

Women who are *keagh* are not regarded as immoral in our sense of the word in these circumstances, but their families are naturally often exasperated by their behaviour and disappointed that no bridewealth cattle have been paid for them. Their social position as unmarried concubines is not generally so high as that of married women, but no distinction is made in the every-day behaviour of their neighbours towards them. The basic difference between widow-concubines and unmarried concubines is that in the former case bridewealth has been paid, even though it has not been paid by the man with whom they live and by whom they produce children. In the latter case bridewealth has not been paid at all or has been returned in divorce.

3. NOTE ON THE RULES OF EXOGAMY AND INCEST

582 684 835 An account of Nuer marriage laws would not be complete without mention of the laws of exogamy. It must be stated at once, however, that breaches of the rules of exogamy and incestuous extra-marital intercourse are not generally the subject of dispute or of litigation in the courts. Both parties are equally guilty, there is no question of compensation, and the spiritual contamination which is considered to follow incest (*rual*) and which is manifested in physical disorders

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[1] For this reason Nuer do not go to extreme lengths of compulsion for, if the girl runs away, they will lose the chance of getting any cattle at all.

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or lover of P and has received the formal recognition of her late husband's kinsmen. Three children are born, B, C, and D. All these remain legally the children of A, and their rights are determined from his position in the kinship structure, but X, as heir to A, performs all the duties of *pater*. Z is merely *genitor* and in this case foster-father. On the marriage of C and D, he cannot claim the father's (*gwan*) portion, but he may expect to receive *yang leta*, which in this case may amount to two or three head of cattle since the union is a stable and agreed one. In such cases Z might be the *genitor* only while X brings the children up in his home.

The variety of circumstances in the examples given above is considerable, but all situations are not covered. The legal and sociological relationships of the members of a Nuer family are often a complicated matter. The family preserves the outward appearance of a simple legal union, and in day-to-day affairs the differences are not stressed. Analysis will, however, often reveal a complicated pattern and a variety of legal relationships which are relevant in the distribution of bridewealth and inheritance.

The system may appear complex and sometimes confusing. It is not so to the Nuer themselves and, in a court session, even if the court members are not already aware of the relationships involved, a few introductory remarks and a few pertinent questions will give them a clear picture of the legal aspect of the case before them.

Disputes sometimes arise over inheritance and the obligations of kinsmen in the collection of bridewealth on behalf of others. Clearly in such cases the legality of an individual's position within the framework of the lineage is relevant. Sometimes the *pater* himself, or more often his heirs, refuse to recognize the claims of a legal son who has been brought up in the home of the *genitor*. Sometimes the *genitor* acquires cattle on behalf of his natural son and holds them in trust. At a later date he or his heirs may refuse to hand them over, which amounts to a breach of trust. Such disputes are not frequent, and in the past were usually settled because public opinion will always press for the fulfilment of kinship obligations based on legitimate relationships. The courts are now often called upon to intervene.

The Position of Children born of Unmarried Concubines

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Children born out of legal wedlock are illegitimate,[1] and strictly speaking should be linked to the lineage of their mother's father. Sometimes their *genitor* will choose to legalize their position by marrying their mother with cattle, and usually her family will press him to do so, particularly if she is not *keagh*, in the sense of a woman who is unable to remain long with one husband, or has been married before and divorced. There is no moral stigma attached to illegitimate children, though the instability of their position may in later life put upon them psychological strains and cause emotional conflicts. A man who is linked to a lineage through his mother will have to compete with the legitimate members of that lineage, and, since his mother may not have brought bridewealth cattle to the family, he may be poorly treated by them. He will sometimes find it difficult to collect sufficient cattle to marry a wife though this is not by any means always so.

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[1] I am aware that the use of the term 'illegitimate' may be challenged. Children born in wedlock are *legitimately* the offspring of their mother's legal husband; children born of an unmarried woman are *legitimately* linked to their mother's lineage.

The *genitor* may also legitimize his offspring by payment of *ruok gaanke* (or *ruok muor*). This is a legitimization fee, and in no sense a marriage, for it does not carry with it any rights in the mother of the child, but only in the child itself.[1] It is further a more individual transaction between the *genitor* and the woman's immediate kinsmen, her father or brothers. If the woman is subsequently married to another man by transference of bridewealth, even if the number of cattle accepted by her kinsmen is less than normal, a conflict may arise between the legal father of her first child, who has acquired this position by the payment of *ruok gaanke*, and her legal husband, who has married her with bridewealth. Legal marriage usually implies legal paternity of all the children of the wife, whether born immediately[2] before or after the marriage. Hence, the legal husband will often insist on the return of the *ruok* cattle from the woman's family to the *genitor*; otherwise the first child would in one context be the legal son of the man who paid the *ruok*, in another the legal son of its mother's husband. This is a confusion of legal status and is not proper. Nuer would say that the cattle of the *genitor* of a child, especially in cases of adultery, and those of the legal husband cannot meet in one herd. It is a situation which may not only cause legal difficulties in the future, especially in the matter of inheritance of posthumous rights, but also bring upon those concerned the disapproval of the ancestral spirits. This will lead to sickness and misfortune. Yet the woman may continue to move from one man to another, living with each for a short period and bearing children to some or all of them. If each legitimizes his child or children, it is possible for her to be the mother of several children each of which has a different legal father. Thus, though it is possible for the children of one mother to have different physiological fathers, it is not possible for one child to have more than one legal father. I quote one case by way of illustration taken from court records.

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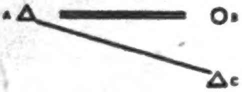
[1] A position similar to that of a husband who divorces his wife but allows her family sufficient cattle to legitimize the children (see pp. 134, 139).

[2] I.e. children in arms, but not older children. The point is controversial, and there does not seem to be any set agreement. If the child is weaned before the new marriage takes place it will probably not go to its mother's new husband. If it is born within a month or two before or after the marriage it will almost certainly be accepted as a child of the new husband.

A married B. She gave birth to a son, C, but then deserted her husband and went to live with X. A's marriage to B was then dissolved by order of the court. While living with X, B gave birth to another child, this time a daughter F. B's family strongly objected to X, who had made no attempt to produce bridewealth to legalize the union, and, through the intervention of the court, he was made to leave her. Later he was prevailed upon to pay *ruok gaanke* to retain legal parenthood of his natural daughter F. B returned home, but was later married by T, who agreed to hand over a much reduced bridewealth, all that her family could expect in the circumstances. Her former husband had forgone all claims on C, but, on B's remarriage, T claimed that all the children should be his. X was persuaded to accept return of the cattle he had paid as *ruok gaanke*. The two children, and those born subsequently, were then regarded as T's. This complicated situation was reached in four stages, the final stage being a permanent one and, unless further difficulties arise, it will remain legally valid in the future. 848 588

(i)

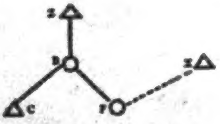


A married B by payment of bridewealth and is therefore legal father of C.

(ii)

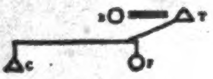
X seduces B, who goes to live with him. A dissolves the union and forgoes all rights in C.

(iii)



F is born and would normally belong legally to her mother's lineage, i.e. through Z, but X pays *ruok gaanke* and becomes her legal father. X then leaves B.

(iv)



B returns home and is eventually married to T (who in this case paid only seven head of cattle for her). X's *ruok* cattle are returned to him and T claims legal parenthood of F. T also claims that he is legal father of C.

In this particular instance the mother's position is constant, for the legitimacy of the children is not traced through her except in stage (iii) in respect of F but not of C. The position of the *pater* has changed throughout. In future, when C and F have reached maturity, their position will be determined by the final picture shown in stage (iv). C will call himself son of T, though he might—as is often the case—revolt and link himself to his physiological father A. T's lineage will have undisputed claim to the father's portion of F's bridewealth, the *ghok kwi gwande*, while B's family will claim the *ghok kwi mande*, a claim which cannot be altered whatever the circumstances.

The Position of Children born of Adultery

By definition adultery cannot happen unless the woman concerned is legally married, in which case all her children, whoever the *genitor*, belong to her legal husband. He is always *pater* so long as the union remains legally valid. An adulterer cannot under any circumstances 848 684

Deng Kac v. *Nyuon Makwac* (*Gaawar Nuer Case*, 1943)

Nyuon Makwac committed adultery with the wife of Deng Kac. Before the court he admitted his guilt and was ordered to pay six head of cattle. Some eighteen months later, when pressed for execution of the judgement, since he had only paid three cattle, he appealed because Deng's wife had in the interim borne a child, and stated that on these grounds he not only refused to pay the remaining cattle but demanded the return of two head leaving only *yang kule*, for this was the law. Evidence was produced, principally on the admission of the woman, that Nyuon was physiological father of the child. Deng Kac was therefore ordered to return two head of cattle to Nyuon, leaving only one cow as *yang kule*. 684 848

This is a simple and typical case, which illustrates the rule that only *yang kule* is due if a child is born as a result of the act of adultery.

Not Pet v. *Gac Nyol* (*Thiang Nuer Case*, 1944)

Gac Nyol committed adultery with the wife of Not Pet. Not instituted a legal case against Gac before the Thiang court. The accusation was admitted and Gac ordered to pay six head of cattle as *ruok ciek*. Subsequently the woman gave birth to a child, and Gac appealed for the return of five of the cattle on the grounds that the child was his. Court examined the evidence and ruled that the child was born too long after the act of adultery for Gac to be physiological father. Appeal dismissed.

This raises a point which is of some difficulty to the Nuer. What constitutes proof of physical paternity? There may of course be evidence that the husband was away at the time, and it is in the interests of the adulterer, at this point in the proceedings, to admit access to the woman because he is seeking the return of the cattle. The time element is also of importance and possibly presents a difficulty, but the Nuer are nowadays better able to assess time than they were in the past. Reference can be made to court sittings, inter-tribal meetings, tribute collection, as well as to the seasons. In most cases the evidence of the woman is given weighty consideration.

Legality of Marriage is a Fundamental Consideration

The legality of marriage is also a primary consideration. We have seen that the legality of marriage is established by the payment of cattle and the performance of ceremonies. A man clearly cannot claim damages for adultery with a woman who is not his legal wife, even if he cohabits with her. 684 588●

Kwol Biliu v. *Cuol Puot* (*Lak Nuer Case*)

Kwol Biliu (a government policeman) claimed damages from Cuol Puot for adultery with his wife. Act of adultery was admitted, but Cuol pleaded

own herd. An emotional tie always exists between a *genitor* and his natural child and, I think, Nuer do not wish to give legal emphasis to this by the transference of cattle. As we have seen, even in adultery this tie is recognized, for the physical father may claim a cow on the marriage of his daughter: the *yang leta* or 'cow of the loins'.

684 •588 that Kwol was in no sense the husband of the woman. She was *keagh* and merely living as his mistress. Court adjourned the case until further evidence could be got from Western Nuer District, where the woman's family lived (obtained through the District offices concerned). The evidence finally produced showed that Kwol had paid her family three head of cattle and a small sum of money. It was also proved that the woman had been living with another man in Malakal (Province Headquarters) until she took up with Kwol. Court ruled that the woman was *keagh* (unmarried) and dismissed the case.

[177] This kind of dispute is, as a matter of fact, not infrequent, and is the result of the increasing number of unmarried women who move from one man to another or live at Government Posts where they have greater freedom and are attracted by the facilities which urban life provides. The men who cohabit with them are often themselves detribalized in the sense that they seek permanent work and cash. They are usually from poor families, and cannot afford to get married in the normal way. In the first instance, they seek work so that they can buy cattle at the auction sales held periodically by the Government, but soon they become attached to an urban life and find that the expense involved gives them little opportunity to save in any case.

Puot Dwil v. *Mut Loinyjok* (*Central Nuer Appeal*)

Puot Dwil claimed damages from Mut Loinyjok for adultery with his wife. Mut agreed, and paid two of the six head of cattle awarded, but subsequently demanded their return on the grounds that Puot had not married the woman. This argument was finally taken before a court, which ruled that the union was not legal. The woman was *keagh* (unmarried) at the time because *kere ghoke twoc*, 'he had not performed the ceremony of *twoc*', the cattle had not been bespoken. Further, and this was regarded as all-important, *ce ciekde kere mut*, 'his wife had not been shaved', referring to the ceremony of *muot*. Court ruled that cattle should be returned to Mut. Puot then appealed, and brought further evidence that not only had the bridewealth cattle been paid (17 in all), but that he had full intention of performing the ceremony of *muot* when the incident occurred. He had not carried out his intention because of the incident. Puot further stated that he would insist on dissolution of marriage unless its legality was accepted. Appeal court accepted the evidence that the ceremony of *twoc ghok* had been performed, and that evidence of preparations for the *muot* on his part was also evidence of his intention. Court ordered Mut to pay a total of six head of cattle, i.e. full compensation for adultery.

The Main Legal Principles

684 The main legal principles concerning adultery can therefore be summarized as follows:

(i) An act of adultery is a wrong against the legal husband of the woman, and requires the payment of compensation in the form of six head of cattle, of which five are intended to appease the wrath of the husband for an infringement of his rights in his wife, and the sixth, called *yang kule*, is to compensate him for the risk of impurity

husband's heirs may draw attention to their rights in the woman and, 684
if she has relations with a man who is objectionable to them, they may 587
treat the case as one of normal adultery and claim damages. Such cases are nowadays usually taken to court, and the line adopted by its members will again depend on circumstances. They will, however, admit the validity of the claim even though they are not always prepared to enforce it.

Bang Wic v. *Lia Ran* (*Dok Nuer Case*)

Lia Ran committed adultery with the wife of Bang's deceased brother. The case was brought before the Dok court, which judged that no compensation was necessary, 'as the woman is a widow'. This judgement was, however, revised by the appeal court, and Lia ordered to pay to Bang one cow as *yang kule*.

Adultery and 'Ghost-Marriage'

The same theoretical law applies to 'ghost-marriages', but the 684
attitude is different. A 'ghost-wife' is actually married by a man's heir
after his death, and the vicarious husband in this case performs all 588
the ceremonial of marriage as well as operating the transfer of bridewealth. Except that legal paternity is vested in the person of the deceased, which fact is of greater significance when the children of the union come of age, the union does not differ from a straightforward simple legal marriage. Moreover the vicarious husband, in his capacity of legal heir to the deceased, stands in the same relationship to the woman and the children as her 'ghost-husband'. The only real difference is that the children will link their names in the lineage structure to the latter, and this is a matter of greater importance in posterity than the present. For this reason, the emotional attitude of the vicarious husband to the wife, their relationship, and their life together are indistinguishable from those found in simple legal marriage, and considering the high proportion of 'ghost-marriages' this is not surprising. The woman is usually his own choice, he has courted her, won her, married her, and his relationship is therefore much more intense and personal than his relationship with his brother's widow. Hence, though a man may overlook an act of adultery with his brother's widow, or the widow of any man to whom he is legal heir, he will certainly not do so in the case of his brother's 'ghost-wife'. The reaction to adultery in 'ghost-marriages' is identical with that found in simple legal marriages, and it is doubtful if a Nuer court would regard the theoretical distinction as relevant to the issue.

Adultery with the Wives of Kinsmen

The full rate of compensation is usually demanded unless the hus- 684
band and the adulterer are on exceptionally good terms in other 835

S:Howell E, G-5 (1942-1944)1954
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would be a clash of interests and a subsequent confusion of status. The embarrassing results are clear enough when we consider the complications which would arise over the claims to bridewealth if the child were a girl, or the claims on the bridewealth of others if the child were a boy. Nuer law is designed to avoid such confusion. The only way out of the dilemma was, as usual, to throw responsibility on the Administration and to decide that, in the event of a divorce, cattle paid as compensation for adultery should go to the Government. The perplexing implications of this decision will be discussed in a later chapter, but it will be seen that adultery is now a civil offence in the first instance and a criminal offence, enforceable under the Chiefs' Courts Ordinance, in the second.

Further legislation at these meetings is recorded here, though the general principles have already been stated:

> Chiefs agreed that:
>
> (i) A man who repeatedly commits adultery with the same woman is not liable to pay compensation (*ruok*) more than twice, but shall be liable to punishment by imprisonment or fine.
>
> (ii) Where two or more men commit adultery with the same woman, the following rules are to apply in future:
>
> If 2 men do so, then each shall pay 3 head of cattle=6.
> If 3 men do so, then each shall pay 2 head of cattle=6.
> If 4 men do so, then no compensation may be demanded by the woman's husband.
>
> (iii) A man can only claim compensation for adultery for the same wife twice; e.g. B commits adultery with A's wife and pays 6 head of cattle (*ruok*). Shortly afterwards C does the same, and he pays 6 head of cattle too. Should anyone else do so, no further compensation is payable, but the third adulterer renders himself liable to a fine or imprisonment.[1]

These rules are not so much an innovation or an alteration as an articulation of existing practice. It is difficult to say whether they are based on exact tradition or whether they represent an evolution of case law based on past precedents. It is probable that each has an element of traditional practice as a basis, but it is unlikely that any were applied in the past with the rigidity implied, even in disputes which reached the final stage of settlement. It is interesting to note too that nowadays when civil liability ceases, penal sanctions may still be applied.

2. SEXUAL INTERCOURSE WITH UNMARRIED WOMEN AND GIRLS

Sexual Intercourse with Unmarried Concubines

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Nuer talk of *dhu ciek*, meaning simply sexual intercourse with any woman, but it usually implies that the woman is legally married whether the marriage is a simple legal union, 'ghost-marriage', 684 leviratic union, or 'widow-concubinage'. Hence the term *dhu ciek* usually implies a violation of marriage rights and closely approximates 588 ● to the European concept of adultery. We have already seen that, if the wrongdoer can prove that his mistress is not legally married to the man who claims to be her husband, no action for adultery lies. The woman in such circumstances is *ciek me keagh*; she is *ciek*, having the status of a married woman, but she is *keagh*, unmarried. This does not necessarily imply any feeling of disrespect, for the expression is sometimes used of a woman who has not yet completed the full processes of legal marriage with her husband, or sometimes of a woman who has been married and divorced and awaits remarriage of a respectable nature. *Keagh*, however, has a wide range of meaning and, used contemptuously, implies that the woman is wanton and self-willed and that, if she is not legally married, she ought to be. In all these circumstances it is her family who have rights in her, and legally it is for them to claim damages for any infringement of those rights. They rarely do so and, if they did, would be unlikely to receive the support of a Nuer court.

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[1] Extracts from Minutes of the Nuer Chiefs' Council Meeting, 1945 (unpublished).

Such women often cohabit with men on a reasonably stable basis, and the union sometimes has the appearance of legality. This is particularly so in detribalized communities to which women of this temperament tend to go, and there are sometimes disputes which appear before the courts. It is noticeable that, although a Nuer court will never award compensation to the man who claims to be husband (*cou*) of the woman, nor, indeed, to her family, they will often punish the offender. Penal sanctions are being applied to offences which must have been comparatively rare in the past and for which there is no traditional remedy.

The Seduction of Unmarried Girls: dhu nyal

The seduction of a young girl (*nyal*) is considered a wrong. Nuer 684 will say it is a great wrong, a *duer medit*, but what they imply is that a girl who gains the reputation of offering herself indiscriminately to 836 any young man will not be approached with genuine offers of marriage. She will be a *nyal me jok*, a 'bitch'.[1] Such girls, once they have gained

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[1] This expression is as disrespectful and rude as it would be in our own language, and is not used openly. I recall a girl of this sort in Thiang country who appeared regularly at dances in company with girls obviously much younger than herself. She appeared to me to be attractive, and I asked some youths of my acquaintance whether they did not think so. They replied that she was extremely attractive, a statement which was followed by a good deal of chaffing and laughter on the part of their fellows. Subsequently I was told by one of my followers that she was considered *jok*, and although older men were much attracted to her, none of them wished to marry her, and the young men left her alone because to have relations with her was regarded as slightly ridiculous and they feared the scorn of other girls. The girl eventually took up with an Arab merchant. See example, *Cany Tut* v. *Dar Jal* (p. 172).

SOME ASPECTS OF MARRIAGE AND THE FAMILY AMONG THE NUER

I

Ordinary domestic life as we understand it in our own country—that is 581
the living together of a man and a woman and the children begotten of the man and born of the woman—is based on the union of marriage. Such domestic relations we call the family. Among the Nuer the family in this strict sense is found side by side with other, and different procreative and domestic groups.[1]

Nuer marriage is a union instituted by payment of cattle by the bridegroom and his kin to the kin of the bride, and by a lengthy sequence of ceremonies. The bride remains in her father's home till after the birth of her first child and only then does she form a common household with her husband, and only then is the union reckoned complete. When I use the term "marriage" in an unqualified sense I refer to this type of union, and when I use the term "family" in an unqualified sense I refer to the husband and wife and children of the wife born in the union of marriage (but not necessarily begotten by the husband). The terms "marriage" and "family" are used in this paper, when qualified, to refer to other types of union and to other groups and, in contrast to these, I sometimes use the expressions "simple legal marriage" and "simple legal family" for the union and group described in this paragraph. Every male Nuer desires to contract a legal marriage for the children he begets are then legally, as well as physiologically, his own offspring and will be named after him.

II

If a man dies before he has married a wife, or if, having married a wife, 588
she does not bear male children (even after his death), one of his kinsmen 768
must marry a wife to his name. Daughters are not regarded as heirs, [611]
because a daughter becomes one of her husband's people and her children belong to her husband's lineage. Nuer say *Nyal, mo ram me gwa* ("A daughter, that is an unrelated person"). If we wish to keep close to Nuer idiom and to appreciate rightly their understanding of this form of union we ought not to say that a man marries a wife to the name of his dead

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[1] I have visited Nuerland on four expeditions. I spent just over a year there altogether. My first two expeditions were made on behalf of, and were financed by, the Sudan Government. My third and fourth expeditions were made as a Leverhulme Research Fellow. Further information about the Nuer will be found in the following papers: "The Nuer: Tribe and Clan", *Sudan Notes and Records*, 1933, 1934 and 1935. "The Nuer: Age Sets", *ibid.*, 1936. "The Nuer: Economic Life", *ibid.*, 1937 and 1938. "Daily Life of the Nuer in Dry Season Camps", *Custom is King*, London (Hutchinson), 1936. Since writing the present essay I published: *The Nuer: A Description of the modes of Livelihood and Political Institutions of a Nilotic people* (Oxford, Clarendon Press, 1940) and *The Nuer of the Southern Sudan* in *African Political Systems* (ed. M. Fortes and E. E. Evans-Pritchard) (Oxford University Press 1940).

588 768 kinsman but that he marries his dead kinsman a wife. Nuer say of a man *Ce deman kwen cek*, "He (*ce*) his brother (*deman*) married (*kwen*) a wife (*cek*)" i.e. he married his brother a wife. This is a clumsy and ambiguous expression in English so I shall frequently speak of a man marrying a wife to the name of a dead kinsman. I ask readers to remember that it is not he, but the dead man, who is the legal husband.

The obligation to marry a wife to the name of a dead kinsman is invariably carried out when the dead man has any close kinsmen to interest themselves in saving his name from oblivion. No initiated male (*wut*) should be allowed to lie in his grave unremembered in his children and Nuer say that if an uninitiated boy dies "after his testicles have fallen", that is, after he has reached puberty (*juil*), he must be married a wife. They often state this rule by saying that a boy must be married a wife "after he has gone among the cattle" or "when he knows all about cattle" (*Ce pek ghok ngac*). I have even been told that a boy who has had his second lower incisors removed ought to have a wife, but in practice a small boy who dies is not married a wife unless he is a first-born son and then only if his ghost troubles his kinsmen in dreams or shows its displeasure by killing members of their families. It seems preposterous to Nuer that a dead man without heirs should not be married a wife and that a kinsman should not raise up seed to him. They always expressed great astonishment when I informed them that we do not have a similar custom, believing that no society exists which does not enforce so elementary an obligation of kinship.

588 768 581 When asked why they marry wives to dead men Nuer say that until a man marries and begets children he has not reached full manhood, and that a man desires children who will keep his memory green and to whom he can make his wants known in dreams. A ghost likes to think of people asking "Whose son is that?" and being told in reply that it is the son of so-and-so. Thus his name continues on the lips of men. They also say that if the kin of a dead man neglect to provide him with a wife he will haunt them. In my discussions with Nuer on this subject they almost invariably stressed anger of the ghosts as the sanction for their obligations to dead kinsmen. "The ghosts are bad and if you do not marry them a wife they will not spare you." A ghost will bring evil upon (*cien*) the family of a man who fails to do his duty.

588 768 This is a vicarious marriage. The vicarious husband acts as though he were the true husband in the ritual that precedes and brings about marriage, and in domestic duties when he and his "wife" begin to share a home. In his physiological and domestic roles he is husband in all but the strict legal sense. In everyday usage people speak of him as the husband of the wife so that it is only by enquiring that one learns the man to whose name she was ceremonially espoused. Nevertheless, it must be clearly understood that the legal partners to the union are not the man and woman living together. The legal husband is the ghost in whose name the bride-cattle were paid and the marriage ritual performed. Moreover if we speak of the group consisting of a woman, her vicarious husband, and the children born of the woman and begotten of the man, as a "family" we

can only do so in a qualified sense. However, it is difficult to construct 588 an adequate terminology to describe every type of Nuer procreative union 768 and bio-domestic group, and we shall have to compromise between the requirements of strict social morphology and the privilege of everyday speech. In speaking of the union between a man acting in the place of a ghost and his "wife" I shall speak of "ghost-marriage" and likewise I shall call a child born of such a union, and begotten by the man who stands in the place of the ghostly pater, a "ghost-child". In this I conform to [775] Nuer usage for they speak of a woman so married as a *cek jooka* ("the wife of a ghost") and of her children as *gaat jooka* ("children of a ghost"). We may therefore describe the family that develops out of a ghost-marriage as a "ghost-family" in acknowledgment of the ghostly status of the pater of the children. Their genitor and foster-father has the status of vicarious husband to their mother. A ghost-family is therefore a variety of the legal family. The legal family is contained in its structure.

It would be pedantic to refuse the word family to the group consisting of a woman, her vicarious husband and her children by him, for he not only stands in the place of the husband and in the place of the pater but his behaviour towards his "wife" and "children" is, at any rate during the minority of his sons, indistinguishable from the behaviour of a man who is husband and pater in full legal sense. It would give a false impression were this group to be called a "natural family" in contrast to a "legal family" because the woman's partner has the same legal rights over her as her husband would have were he alive, and he exercises the same authority over his children in their minority as their pater would do. During the minority of the children the legal family and this other group in which one member plays a vicarious part are alike in patterns of behaviour and sentiment. At that time it is only in a formal legal sense, particularly with regard to descent, that they differ. It must be understood, therefore, that when I speak of a ghost-marriage I refer to a union of three persons, a ghost and his wife and the man who takes the place of the ghost in marital relations, and the children born of the wife. Using this terminology, which I admit is clumsy, the difference between a legal marriage which is an actual marriage and a legal marriage which is a ghost-marriage is that the first is a union of husband and wife, while the second is a union between ghostly husband, pro-husband and wife; and the difference between a legal family which is a simple family and a legal family which is a ghost family is that the first is a group consisting of a husband and wife and children born of the wife in the union of marriage, while the second is a group consisting of a ghostly husband, a pro-husband, a wife, and children of the wife born in the union of marriage. It must be remembered that the pro-husband is not the pater of the children.

When Nuer speak of a ghost-marriage they generally say that the vicarious husband has "kindled the fire of the dead." Thus when a man [587] marries his father's brother a wife they say of him *Ce mac gwanlende pet*, "He has kindled the fire of his father's brother."

A very great many Nuer domestic groups are ghost-families. They must be almost as numerous as simple legal families. Not only do many

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youths die before marriage—and this was yet more the case before the Government restricted fighting—but, for one reason or another, married men do not always leave male children to continue their line. A man's children may die. He and his wife may die. His widow may have no children or go back to her own people and be married to another man. He may beget only daughters.

Even if a man begets sons who become initiated men he may leave no male heirs for these sons may die before they have married and begotten children. In this case a man's kinsmen must raise up seed not only for him but for his dead sons also. Thus in Diagram No. 1 A ♂ dies leaving two initiated sons B ♂ and C ♂ both of whom die unmarried. E ♂ will then marry A ♂ a wife (N ♀) with A's cattle and by her beget F ♂ and G ♂. When F ♂ and G ♂ reach manhood they will marry wives (Q ♀ and Z ♀) to the names of their brothers, C ♂ and B ♂, before taking wives to their own names.

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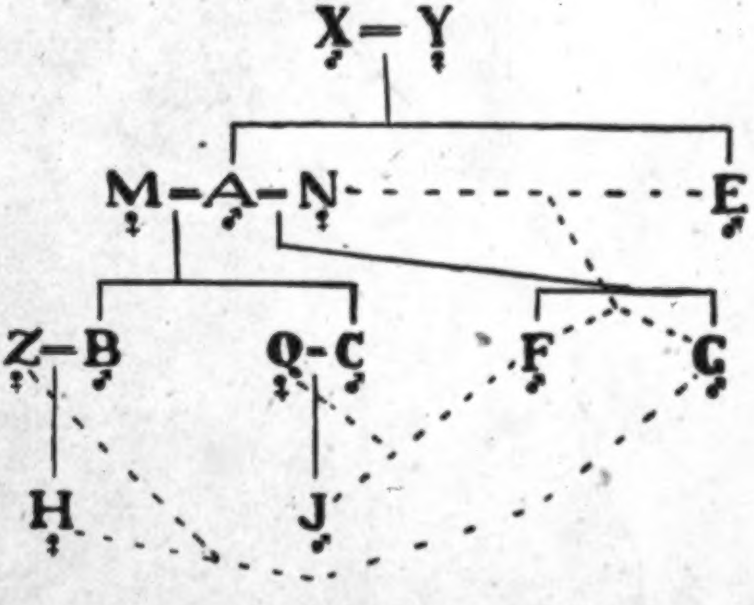
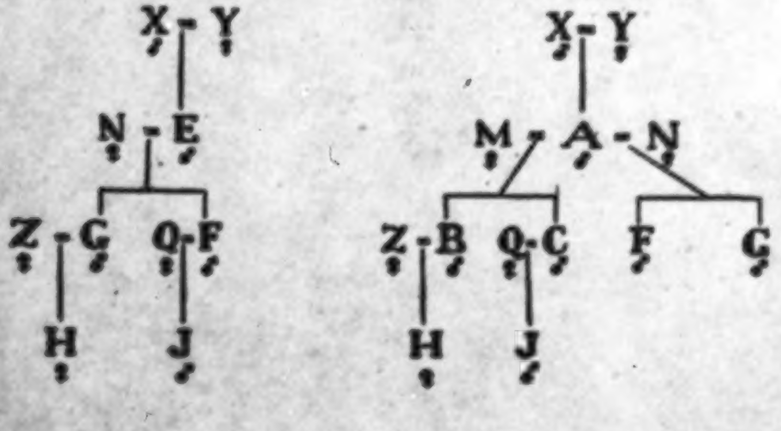


Diagram I

Moreover all the men who in the last generation married wives to the names of sonless kinsmen and were unable to marry further wives in their own right are legally childless because the children they have begotten count as children of the kinsmen to whose names the wives were married. It is the names of these dead kinsmen, and not their own names, which will ultimately survive as links which attach children to their trees of

ascent. Thus in Diagram No. 1 F ♂ and G ♂ take wives to the names of 588
C ♂ and B ♂. The children of these unions (J ♂ and H ♀) are children of 768
C ♂ and B ♂. Therefore F ♂ and G ♂ will be left childless if they cannot 611
afford to marry further wives in their own right. This frequently happens when there is a large family and one brother marries another, and dead brother, a wife, for the living brother may never again be rich enough to contract a legal marriage on his own account. He enjoys the material advantages of matrimony in the person of his brother's wife and his younger brothers have the right to marry wives with the family herd before he can contract a legal marriage. If, in this way, a man marries a wife to the name of a dead brother and does not later marry a wife of his own, then one of the sons he has begotten (his physiological sons and legal nephews) will marry him a wife after his death.

During the childhood of ghost-children the fact that in legal reckoning their father is a ghost is of small importance, since their relations with their genitor are exactly what their relations with their pater would be, were he alive, but after the ghost-sons are initiated their relationship to their pater has more significance since it confers on them legal and ritual privileges. The man who stands in the place of the pater may be all-important in his lifetime but the pater's name looms larger when the children grow to maturity and, Nuer tell me, it is the pater's name that will finally survive in genealogies at the expense of the vicarious parent. This point will be more readily understood later but it is worth contrasting here, as is done in Diagram No. II, the legal descent of the persons shown



Natural Descent   Legal Descent

Diagram II

588 in Diagram No. I with their natural descent. J. ♂ will trace his ascent to
768 X ♂ through C ♂ and A ♂ and not through F ♂ and E ♂.

611 The commonest ghost-marriages are instituted on behalf of brothers, paternal uncles, maternal uncles, and fathers. By "fathers" is here meant physiological fathers though occasionally a man honours his true father (his pater and genitor) by marrying him a wife after his death, although this is not necessary because the man already has heirs.

582 Though a sister's son may marry a wife for his maternal uncle, a
588 maternal uncle is forbidden to marry a wife for his sister's son. Nuer
768 have even told me that it would be "incestuous" (*rual*) were he to do so. I was told, however, that a maternal uncle may espouse a wife to his dead sister's son so long as he does not himself have intercourse with her but allows a stranger, most likely a Dinka, to beget the children. The Dinka is also said to take the place of the husband in the marriage ceremonies during which the maternal uncle addresses his sister's ghost: *Nyimar, Jangemo, be mac gaanku pet* ("My sister, this Dinka will kindle the fires of your children" i.e. give them posterity). I have not recorded any actual arrangement of this kind and it is possible that it is the sister and not the sister's son who is married a wife.

Likewise a man's father, either pater or genitor, and his father's brother would not marry him a wife. It would seem that a man of a senior generation is not allowed to marry a wife to the name of a kinsman of a junior generation because the man would then be both vicarious husband to the wife and her father-in-law. One Nuer whom I asked why a maternal uncle might not marry his sister's son a wife replied "He is her (the wife's) father-in-law (*gwanthu*)". A husband's mother's brother counts as a "father-in-law". A man may not marry his father's sister's son a wife because he would be doing so with the cattle of the ghost's maternal uncle.

Also a man never marries a wife to the name either of his father's father or of his mother's father. It was the duty of their sons to have done this. *Gwan naru me ce lieu, ci ye de kuen cek*, "The father of your maternal uncle who has died, you may not marry him a wife."

428 In those cases I have investigated where a man has married his maternal
588 uncle a wife he has done so because he has obtained possession of his
768 maternal uncle's cattle. A man without sons or brothers may die and his cattle pass to his sister's son on the understanding that he uses them to raise up seed to his uncle. Members of the maternal uncle's lineage will not object to this procedure though they sometimes expect the sister's son to come and live in their village and raise up seed to his uncle in his uncle's old home. Occasionally it happens that when a girl is married her maternal uncle and his near kin are already dead so that there is no one to receive "the cattle of the maternal uncle". This part of her bride-wealth therefore goes to her brother in order that he may use the cattle to marry his dead uncle a wife. However, when a sister's son marries his maternal uncle a wife it is only in the absence of a close agnatic kinsman. He is not the most approved substitute for the dead man and acute difficulties may arise later between the children he has begotten and himself.

If a man without male heirs dies in possession of cattle it is more than ever incumbent on his relatives to marry him a wife. These cattle, *ghok jookni* (" cattle of the ghosts "), are sacred and ought not to be used for any purpose other than marrying wives to the dead. If a member of the homestead of a dead owner of cattle commits homicide or adultery, and the kraal is raided to obtain compensation, the raiders will not seize " the cattle of the ghosts". Thus if a man leaves five head of cattle behind him these are kept in the kraal till they increase to a large herd. One of his kinsmen then takes a wife in his name to raise up seed to him. This man may take what cattle remain after the bride-wealth has been paid and do what he pleases with them. 588 768 428

When a man marries a brother a wife it is considered proper for a younger brother to take a wife for an elder brother though it is not forbidden to an elder to marry a wife to the name of a younger. As brothers marry in order of seniority it is fitting that when it comes to the turn of the dead man to take a wife the brother next junior to him should marry a wife to his name. Nevertheless if the next brother is only a father's son to the dead man and there is a still younger brother who is his mother's son it will be left to his mother's son to do his duty to the dead, and the father's son will marry a wife in his own right. 588 768 593

Only a kinsman takes a wife to the name of a dead man. An unrelated person would never do so, though in exceptional circumstances a kinsman might marry a wife to a dead man and allow an unrelated man to cohabit with her and beget children of her.

I shall discuss later in what way a simple legal family with a living pater differs slightly in sentiments and domestic inter-relations from a ghost-family with a dead pater, but it may again be emphasized here that they are very different in respect of the formal status of their members to one another. The physiological and foster father is not the husband of the mother but stands in the place of the husband. Also the children born of the mother are not his sons and daughters but his kinship relationship to them is determined by the genealogical link between himself and the ghost-father. Thus in Diagram No. III if F ♂ marries a wife to his

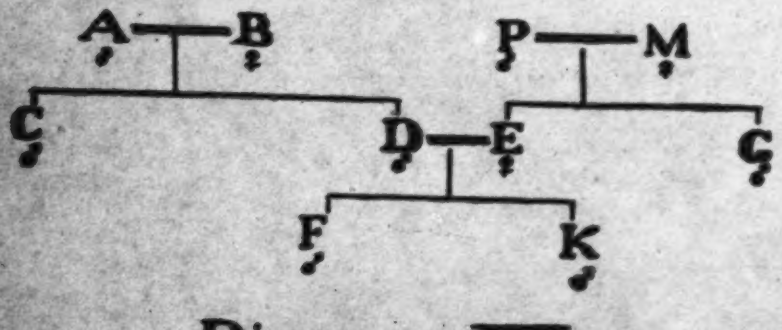


Diagram III

588 paternal uncle, C ♂ ,the son whom he begets is his paternal first cousin
768 (*gat gwanlen*). If he marries a wife for his father, D ♂, a son born of the
593 union is his father's son (*gat gwan*). If he marries a wife for his brother, K ♂, a son born of the union is his brother's son (*gat dɛman*). If he marries a wife for his maternal uncle, G ♂, a son born of the union is his maternal uncle's son (*gat nare*). In none of these instances is the child his son (*gatdɛ*).

588 Occasionally women marry wives to the names of dead kinsmen and
768 yet more rarely, a man marries a wife to the name of his dead sister if she
835 was barren (*cek ma rol*) " for she then counts as a man." The children of this union are called after the dead woman and her brother who begets them has the status of their paternal uncle " for his sister has become his brother ", and on the marriage of the daughters he gets the cattle due to a paternal uncle. In Lou country where I was informed that such marriages occasionally take place I was also told that the brother who takes a wife to the name of his dead sister may not have sexual relations with this wife. He builds a hut for her in his homestead and there she cohabits with a neighbouring stranger or Dinka. The reason given for this prohibition was that in such a marriage " your wife is like your sister " i.e. she stands in the place of your sister. I have recorded only one such marriage : the Lou prophet Deng married a wife for one of his sisters with the blood-cattle paid in compensation for her death by the Ngok Dinka who had slain her.

588 I was told also that a man may marry a wife to a dead paternal aunt who
768 was barren during her lifetime. When I asked Nhial Mitmit whether a
428 man might marry a wife for his mother's sister he replied : " No, certainly not. Is she not your mother's sister ? She has a brother who can marry her a wife if necessary. It is your business to marry your sister or your father's sister a wife. You restrict yourself in this respect to female paternal agnates. On your mother's side it is the duty of your mother's male kinsmen." Nevertheless, this is a statement that requires more confirmation before it can be accepted because Tutrial, an excellent informant, told me that very occasionally a married woman who has died without issue is married a wife by her sister's son. From time to time daughters of the dead woman's brothers and sisters are married and had she been alive she would, on such occasions, have received a " cow of the paternal aunt " or a " cow of the maternal aunt ". One of her sisters receives these cows in her place and she may use them and their increase to obtain a wife to stand in the place of her sister, to bear children to her sister's name. Tutrial said that she would persuade her son to act as husband to her sister's wife. The dead woman now counts as a man and her children may some day join her own people and leave the village of their genitor (their mother's sister's son). When the daughters of this union are married the cattle of the bride-wealth on the father's side go to the dead woman's kinsmen because she is the pater. Since she counts as
588 a man the genitor will not get " the cow of the mother's sister " but " the
768 cow of the father's sister "

These vicarious marriages by women or on behalf of women are very

588 768 rare and of little social importance. I know of no cases at first hand and am therefore unable to vouch for the information given to me and to say what are the interrelations between the people concerned. On the other hand ghost-marriages in which a man takes a wife to the name of a dead kinsman are so common that several cases can be recorded in even the smallest village. A large number of such unions are listed and shown diagrammatically later in this paper so that I will only instance a single typical case here. Most of the people in Diagram No. IV belong to the Thiang tertiary section of the Lou tribe and dwell at Kurmayon on the Sobat River. Thiep ♂—Gol ♂ was slain by Dinka and his sister's son, Duob ♂, married him a wife, Kan ♀—Bie ♂. Kwany ♂—Thiep ♂, my informant, was born of this union. Loc ♂—Buai ♂ (or Loc ♂ -Nyakweka ♀ as we called him at Kurmayon, his mother's village) was slain during fighting between the Thiang and the Yol tertiary sections. His brother's son, Lam ♂ -Duob ♂, has married him a wife, Nyabiem ♀—Bel ♂. It is worth noting that Kwany ♂ gave several cattle to marry Nyabiem ♀ to Loc's name because Loc ♂ is his father's sister's son (he used to speak of him as *gat gwar*, "son of my father").

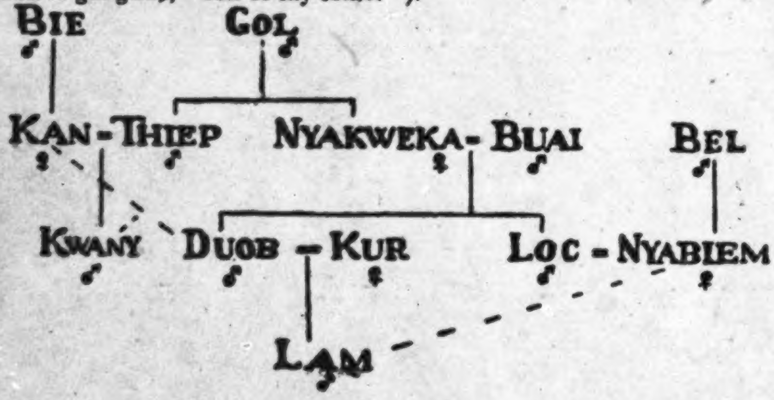


Diagram IV

587 588 768 Another type of procreative union results from the custom of the levirate. When a man marries, his kinsmen provide the bride-cattle and the cattle go to the wife's people and there breed and provide them with food, and with cattle for their own marriages. The wife leaves her kinsmen and becomes one of her husband's people. Her reproductive and economic services are not due to her husband alone but to all her husband's near kinsmen who speak of her as "our wife". If the husband [611] dies Nuer do not regard the union as broken. The wife continues to bear children and, whoever may beget them, they are counted as children of the dead man. But though the status of the genitor does not affect the children, who take their status from their pater, it is considered that a

587 woman ought, on the death of her husband, to go to live with one of his
●588 brothers, since she was married with the cattle of their kraal. This is not
768 a re-marriage. The woman is still wife (*cek*) to the dead man but she lives with one of his brothers who takes the place of her husband, raising up seed to his name, and acting as foster-parent to the children and bread-winner to the family. Nuer never allow one to use the word "marry" (*kwen*) in this connection and I have sometimes provoked them to merriment by this mistake. They usually say *Ce cek deman lath dwil*, "He has provided his brother's wife with a hut". We may nevertheless speak of this form of cohabitation as leviritic marriage. Nuer regard it as
[186] so desirable and logical a custom that I always had the utmost difficulty in explaining to them that in our country a widow may remarry. They wanted to know how this could be so when cattle had been paid and were scornful at the information that in Europe we do not pay bride-wealth.

Leviritic marriage is very different from ghost-marriage as will be seen
587 when we consider the relations between the children and their genitor.
588 It may be said whereas a ghost-marriage means that the vicarious husband
573 actually marries the wife in the sense that he pays the cattle and performs the ritual of marriage, even though it is to the name of another, in leviritic marriage the legal husband has performed these actions and the brother merely enters as pro-husband a family already in being. The widow is always known as the wife of the dead man and the children clearly regard themselves as members of a legal family to which their pater's brother does not belong. The brother has less control over the widow than a man has over his partner in ghost-marriage and he may be opposed by the sons when they grow up.

Although this is not a marriage in the Nuer sense I use the expression "leviritic marriage" for want of a better and because I wish to emphasize the brother's legal position as pro-husband, for he has legal claim on the services of the widow in virtue of his kinship to the dead man. It was not the dead man alone who took her for wife but it was the brothers as a whole who married her with their cattle. If she refuses to live with him he can, in certain circumstances, divorce her, and if another man has relations with her while she is living with him he can sue the man for adultery. Leviritic marriage, therefore, like ghost-marriage must be conceived of as a variety of legal marriage, being a union between three persons, the dead husband, the pro-husband who is also the dead husband's brother, and the wife. It differs from a ghost-marriage in that the husband and wife at one time lived together in matrimony. A leviritic family, on the same principle, consists of the dead husband, the pro-husband who is also the dead husband's brother, the wife, and the children born of the wife. It generally differs from a ghost-family in that the children, or some of them, were begotten by the dead husband. Such a child is therefore a *ret*, or orphan, and not a *gat jooka*, or ghost-child. Here again the pro-husband can never be pater to children born of the wife, whether begotten by the dead man or by himself. The simple legal family is contained in the structure of the leviritic family as it is contained in the structure of the ghost family.

those of a pater towards members of a legal family. It must be empha- 587
sized that while the natural family is not a legal family the position of the
genitor is socially recognized in a number of ways and that the natural 593
family is often a group of persons living in a common household and cooperating in economic and other domestic undertakings. Widow-concubinage is not a purely biological union nor is the natural family a purely biological group.

Sometimes a widow elects to live with a clansman of her husband. In this case Nuer speak often of his relationship to the widow as leviritic marriage but this is by courtesy and his legal position is not much better than that of a totally unrelated man would be. I only speak of leviritic marriage, therefore, when it is a brother or son of the dead man who takes his wife.

The simple legal family is not contained in the structure of the natural family in the way it is contained in the structure of ghost-families and leviritic families, and the natural family cannot be regarded as a variation of the legal family, because, whereas in ghost-families and leviritic families the legal representative of the pater is the foster-father, and maybe the physiological father, of the children, in the natural family the legal representative of the pater is not the physiological nor entirely, if at all, the foster-father of the children. In fact, as we shall see later, there may be a struggle between the interests of the natural family and the interests of the legal family, as represented and expressed by the legal representative of the pater.

It will have been seen that the role of a father among the Nuer is often split and different parental functions are performed by different men. The man who was married to the mother of children at the time of their birth we may call the pater or legal father. The man who begot the children we may call the genitor or physiological father. The man who who acts as protector and bread-winner to the household of which the children and their mother form part, and who performs all those intimate services towards the children which are generally associated with the status of father, we may call the foster-father. I refrain from calling the pater the sociological father because all the men who perform these different functions receive social recognition.

When children are born in the union of simple legal marriage the same 611
man is pater, genitor, and foster-father. When children are born in the union of ghost-marriage or in the union of leviritic marriage one man is the pater, and another man is both genitor and foster-father. When children are born of a widow-concubine, the pater is her dead husband, the genitor is her lover, and the part of foster-father is played in early childhood by her lover, or lovers, while in later childhood and in adolescence it is often played by a kinsman of the pater.

IV

588●

In true marriage, ghost-marriage, leviritic marriage, and widow-con- 848
cubinage a mother is always legally married and all her children belong in 611
virtue of her marriage to her husband's lineage and clan. But there are 593

588 848 611 593 also in Nuerland many children born of unmarried mothers and children born of an unmarried mother may belong to different social groups, because their physiological fathers have a right to pay a fee of from four to six head of cattle to legitimatize their natural children. The payment of a fee makes the child a member of the genitor's household. The genitor of the child of an unmarried woman is also his foster-father if the man and woman continue to live together. If the woman takes a new lover she goes to live with him and if her child is small she takes it with her. In this case the genitor is one lover and the foster-father is another lover but when the child is older he becomes a member of his genitor's household. A child of an unmarried woman has no pater but his genitor becomes his pater, on payment of a fee (*ruok*). This fee becomes the property of the woman's father and is not divided among her kinsmen as bride-wealth is divided.

Many a Nuer girl finds cohabitation with the husband to whom she has been espoused too painful to continue and if she is stubborn she will provoke a divorce. This may happen a second time with a second husband and her parents finding they are unable to crush their daughter's rebellious spirit let her do as she pleases since constant return of her bride-cattle involves them in trouble and difficulties. Such a girl thereupon cohabits with a man of whom she is fond. If she is restless she may spend a few years with one lover and then a few years with another. She moves from village to village taking her infants with her and bearing children by a number of different men. In every Nuer village where I made enquires I have found one or two unmarried mothers. Nuer call an unmarried mother (*cek ma kea*) and in this paper they are referred to as "unmarried concubines". The child of an unmarried concubine is a *gat keaka*.[1]

588 [848] In some respects the social position of unmarried mothers, and their children, is not as high as that of wives, and of children born in wedlock. The mothers do not stand so high in public esteem and in a quarrel a man may throw the reproach of bastardy at the child of an unmarried concubine. A man who has begotten a child by an unmarried concubine is seldom eager to legitimatize his union with her by payment of bride-wealth because these women are known to be restless and he expects that she will one day leave him as she has left a previous lover to come and live with him. But they are not treated as of inferior status and their lovers behave towards them as towards wives—in fact they often treat them better than wives for if a man fails to treat his concubine well and to perform those services to her which a man is expected to perform for his wife she will leave his home, whereas a wife is not in a position to depart so easily. One cannot tell who is wife and who is concubine in a household by bare observation of their behaviour and the behaviour of their

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[1] In Lou country people often speak of them by the term for the children of widow-concubine, *gaat laka*. In this part of Nuerland the expession *cek ma lak* is seldom used for a widow-concubine. Linguistic differences of this kind are often found in different parts of Nuerland but I have not considered it worth while always to record them.

husband towards them. One can only know by enquiry. In no way is 588 ●
their behaviour stigmatized as immoral. If a woman prefers to live as a
concubine than as a wife that is her affair. Where they are in a worse
position than a wife is that they cannot expect the same support from their
kinsmen in disputes with their lovers as a wife can expect from her kinsmen in disputes with her husband. What a wife may demand as a right
a concubine can only ask as a privilege. This disability is compensated
for by the independence they enjoy. They are free to move as they please
and to have love affairs whenever and with whomsoever they like. Those
unmarried concubines whom I have known personally have been women
of strong character who value their independence and do not desire
matrimony. They refuse to be bullied by parents or husbands. Indeed
Nuer realise that they are temperamentally unfit for normal marriage and
consider that they are unlikely to settle down till they are old.

The main difference between a widow-concubine and an unmarried 588
concubine is that a widow-concubine has had cattle paid to her kinsmen 587
and these cattle are still "on her back" (*te ghok jokde*), as Nuer say,
whereas an unmarried concubine has never had any cattle paid to her
kinsmen, save those as a fee to affiliate her children to the lineage of her
lovers. If she was once married her bride-cattle have been returned.
Kea e cek me caa ghok luny jok jaude, "A *kea* is a woman from whose back
cattle have been returned". When cattle are paid to make a child of an
unmarried concubine the legal child of the man who begot him they are a
legitimatization fee and not bride-wealth. The payment neither gives
the father control over the mother nor a right to other children that she
may bear by him or by any other man.

Sometimes instead of legitimatizing his child by payment of a fee a 588
man marries the mother and, by payment of bride-wealth, not only legitimatizes 583
the child but also any future children whom she may bear by him 848
or by any other man. A *cek ma kea*, an unmarried concubine, then becomes a *cek pany*, a true wife. When a man marries a concubine he does
not pay as many cattle as he would have done had he married her as a
maiden. He is said to pay some ten to fifteen beasts instead of from
twenty to thirty.

A man only marries a concubine when he is certain that she wishes to 588
remain with him. For sometimes a girl becomes a concubine, not through 581
unwillingness to settle down to married life, but because her parents have
forced her to marry a man whom she detests and whom she has provoked
to divorce her. A girl may even run away from home in despair when
faced with marriage to a man she dislikes, and live with a lover in a different
tribe. Some girls are betrayed by youths who have courted them and
refused to marry them when pregnant, though, in my experience, this is
very rare because a youth is generally glad to marry a girl who is in child
by him. In this case the girl becomes a *kea* but she will not remain
one, for she will be married to another man who becomes the pater and
foster-father of the child though he is not the genitor. Men do not object
to marrying young women who have borne a single child but they are unwilling to marry older women who have already borne several children.

588 581 A man is content to pay a fee to obtain possession of any children he may beget by an older woman. Nuer also often speak of a girl who has had a child by a youth who states that he is willing to marry her as soon as he has sufficient cattle, as a *kea*, but no one would refer to her as such once the ritual of marriage has been performed.

588 We may speak of a man, the unmarried woman with whom he lives, and the children born of the woman and begotten and legitimatized by the man as a simple natural family. The family which springs from widow-concubinage is a complex group in that all the members except the widow's mate are members of a different and legal family as well as members of the natural family, for the genitor can never pay a fee to legitimatize his natural children. When a man begets children by an unmarried woman there is no legal family in opposition to the natural family so that the position of genitor in relation to his children is much more secure. Although the woman is not married to the man we cannot deny the word "family" to this group because its members live together as a household on the pattern of the legal family, at any rate for some years. If the woman leaves him the position of the man is equivalent to that of a man whose wife has been divorced and whose bride-cattle have been returned except those left with her kin to legitimatize the children.

V

848 842 It is clear from what I have already recorded that Nuer do not attach great importance to physiological paternity and that they are far from regarding bastardy with repugnance. Men prefer to beget their own sons but it is not ignominious to nurture children begotten by others. Nuer pay little regard to the manner of begetting so long as the legal parentage of the child is well established. Nevertheless, the links between a genitor and the child he has begotten is not a purely physiological one, even when the genitor is neither pater nor foster-father. The act of begetting creates a social relationship between genitor and natural son and they are bound to one another by a mystical tie. This relationship will be better understood later but it may shortly be illustrated here by a few remarks about adultery (*dhom*).

837 Yet another union which may result in the birth of a child is adulterous congress with a woman during the lifetime of her husband (or of her mate in ghost-marriage or leviritic marriage). Coming from a people (the Azande of the Nile-Congo divide) where adultery cases are very common at the present day, I was at once struck with the absence of cases, quarrelling, and even talk about the subject in Nuerland. Nevertheless, I believe that adultery is frequent both with married women who are travelling a long way from their homes and with women in their husband's villages. Nuer have often described to me how they have committed adultery and were not the least ashamed to talk to me about their adventures. They treat the matter light-heartedly. If you are caught in the act you may be speared or clubbed but if you are not caught in the act you can compensate the injured husband. They do not speak of adultery as though it was a highly immoral act but only as a risky and possibly expen-

684 have been paid in compensation for adultery with the wife of Yang ".
The same verb is used for paying compensation for intercourse with an unmarried girl e.g. one says *Bi yang ruok*, " You will pay a cow " for this action. *Ruok* also means to legitimatize a child born of an unmarried concubine. The genitor says *Ca gatda rok*, " I have legitimatized my child by payment of a fee ".

833 To describe sexual relations outside the union of marriage Nuer use the
834 verb *lum*. The use of this word is a polite way of referring to sexual
intercourse and could also be used to describe marital relations if one were to refer to intercourse between husband and wife. But it would be very unusual to refer to it. The word *lum* is used to describe the social relationship of a man to an unmarried concubine or widow-concubine, though it is a slightly coarse expression when used in this connection, and in the presence of related persons one would preferably say of a man and a widow *Mathke pi kel*, " They drink water together ". *Lum* is also used to describe the courtship of a girl by a youth and refers to mere flirting or sexual intercourse alike. In fact it covers all relations between the sexes from casual intercourse to permanent cohabitation, though it has generally the sense of extramarital relations.

835 The rules of exogamy which obtain for simple legal marriage apply also
582 to all the different unions described in this paper. A man may not
cohabit with a woman whom he may not marry.

VI

585 The test of the nature of a procreative union is in the division of the
431 bride-cattle of daughters born of it. When the pater is alive he receives
the " cattle of the father " and " the cattle of the mother ". If he is dead
428 they belong to his sons (the bride's half and full brothers). The genitor
588 in ghost-marriage and leviritic marriage has no legal claim to the " cattle
587 of the father " or the " cattle of the mother ". They belong, at any rate
in theory, to the bride's brothers. The genitor in ghost-marriage stands in the place of the pater with regard to the bride's brothers as well as to the bride herself so that there is no need to define ownership of the bride cattle very clearly, for in any case they join his herd. When the genitor has begotten the bride in leviritic concubinage, division of the cattle may be more complicated because the bride may have full or half brothers begotten by her dead pater, or by other men after his death. I discuss these matters in a preliminary manner here because they will be elaborated later.

The genitor in ghost-marriage and in leviritic marriage may always demand a cow for his services for having begotten the bride. Similarly a man who lives with a widow-concubine may demand a cow on the marriage of her daughter on the grounds that he has begotten her and, if he acted as her foster-father, he may claim another two or three head of cattle for having acted as bread-winner to the family during her infancy and adolescence. He says " I cut meat for them " in reference to the fact the children have been nurtured by his labour as herdsman, gardener, and hunter.

Nyueny is one of the finest
ridges (*thur*) in Western Nuerland and in times of flood the people of 361
neighbouring villages encamp there. This advantage is slightly offset by 312
the corresponding fact that there is often insufficient water for the cattle
early in the dry season, so that the people of Nyueny are among the first
to move to dry season camps. The population of the village is approxi- [161]
mately[1] 129 souls.

The village, commencing from the outlying hamlet of Dorpan, consists [621]
of the following 26 homesteads.

Homestead No. 1 Nyaluthni ♀—Rial ♂. She is a barren woman with 592
many cattle which she has obtained partly as fees, for she is a well known 361
diviner and magician, and partly from the bride-wealth of her nieces, for 588
her brother has several daughters and she not only gets the cattle due to a bride's paternal aunt but also some of those due to a bride's paternal uncle, because, being barren, she counts in some respects as a man. She exchanged a Dinka woman for cattle (*ce cek jaanga luil ka ghok*). This was not, properly speaking, a marriage but we might describe it more correctly as an exchange or even a purchase. This woman, Luel ♀, bore two children, Majak ♂ and Nyagai ♀, by a Dinka man. Nyaluthni has also married, by payment of bride-wealth and by performance of the usual ceremonial, two Nuer girls. One Nyabuor ♀, gave birth to twins, of whom Buth ♂, survives, by a man of the Jikul clan, Wecyil ♂ by name. When Wecyil ♂ died she cohabited with a Jikany man called Kemkin ♂. and she is now in child by him. The second girl, Nyakoka ♀, has recently been married and she has not yet borne children. She cohabits with Rwot ♂, a kinsman of Nyaluthni of the Tedar minor lineage.

These men do not live in Nyaluthni's homestead but frequently visit it and stay there for one or several nights. They hoe her gardens and are chosen to cohabit with her wives because they are known to be hard-working gardeners. They are given meals when they are present, and on the marriage of the daughters he has begotten the genitor will receive a cow from the bride-wealth of each.

Nyaluthni (generally known as Nyarial after her father) is the pater of 592
the children of her wives and she is always spoken of as such when their
names are mentioned. Thus people always speak of Majak ♂—Nyarial 593
♀ and Nyagai ♀—Nyarial ♀. Her children address her as *gwa*, "father", 588
and not as *ma*, "mother". She is a woman of outstanding character, with fine features, and always well-dressed. She is very competent and runs her homestead like a man. If her wives are lazy or disobedient she beats them. They treat her with the respect due to a husband and place meals before her with the same ceremony as they would employ to a male husband. She speaks of them as "my wives". She directs the business

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[1] I say "approximately" because it was not my intention to compile a census though in fact I did so in the course of my enquiry into matrimonial conditions in the village. Consequently it is possible that two or three girls whom I have reckoned as residents are married to husbands in other villages. This may have been the case at the southernmost end of the village. I know everyone in the of rest the village too well for this mistake to have been made, enquiry always being controlled by personal contact.

592 of the kraal and homestead with the skill of an experienced herdsman
593 and householder and stands no interference in matters pertaining to the
● 588 cattle, even from her initiated son, Majak ♂.

592 *Homestead No. II.* Col ♂—Ngunjok ♂. He lives with Nyarueni ♀
588 whom he married to the name of his father (see Diagram No. VII). He
is now contemplating marriage on his own account. I am uncertain whether Nyarueni has a baby or not. The byre of this homestead originally belonged to Wec ♂ (see Homestead No. X.), who sold it to Col ♂ for a he-goat. One of the huts belonged to Nyaluthni ♀ (see Homestead No. I), who lived there for a time before moving to her present hamlet.

[611]

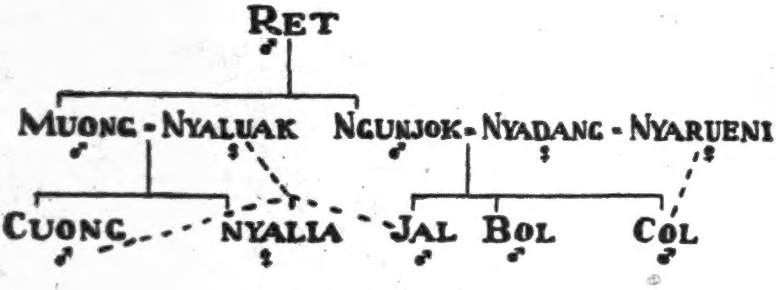

Diagram VII

Homestead No. III. Baranyai ♂—Kwenwar ♂. He lives with a woman whom he married to the name of his maternal uncle Yoah ♂—Pan ♂. In our village we speak of Baranyai's mother as Nyajal ♀—Kuth ♂ and those who know about her brother speak of him as Yoah ♂—Kuth ♂ but this usage is not correct because their pater was Pan ♂, a man of the Jikul clan. After Pan's death in an epidemic of smallpox his children were brought up by Kuth ♂. On the marriage of Baranyai's sisters there were no claimants to the bride-wealth on the maternal uncle's side, Yoah ♂ and his brothers and sons being all dead, so "the cattle of the maternal uncle" went to Baranyai and his brothers. Baranyai received most of them and married his maternal uncle a wife with them. He has begotten by her Ngundeang ♂, Rwot ♂, and Thak ♂. A natural son of Baranyai ♂, named Galuak ♂, also lives here. He was born of a widow-concubine, Nyadang ♀ (see Homestead No. XXI). Baranyai also has a small daughter by another widow-concubine, Nyadut ♀, (see Homestead No. XVIII). She lives with her mother. Baranyai has no legal wife of his own.

Homestead No. IV. Nyamani ♀, widow of Luak ♂. To her husband she bore Bilieu ♂ and a daughter. Since her husband's death she has cohabited with Panyuan ♂ (see Homestead No. IX) by whom she bore twins who died and Bol ♂. She was pregnant with another child when I left the village. See Diagram No. IX.

Homestead No. V. Wang ♂. He is unmarried.

Homestead No. VI. Rainen ♂—Ngwoth ♂. He lives here with his 592
legal wife, Nyadang ♀—Col ♂, by whom he has begotten two sons and five 588
daughters. His byre has fallen down and his cattle are housed in the byre of homestead No. V. The mother of Wang ♂, the owner of this byre, shares a hut with Nyadang ♀. During my visit a Dok girl was living here as unmarried concubine to Rainen's eldest son, Nhial ♂.

Homestead No. VII. Juan ♂—Tien ♂ (brother of Yang ♂ of homestead No. XIX). He lives with Nyaghok ♀, one of his father's widows. His mother, Tikjac ♀, a Lek woman, also lives at his home. Tikjac ♀ bore her husband two sons, Yang ♂ and Juan ♂, and two daughters, Nyayoah [837]
♀ and Nyathal ♀. She is now past child-bearing. Tien's second wife, Nyaghok ♀, a Dinka woman, committed adultery during her husband's lifetime with one of his distant agnatic kinsmen, called Deng. A boy, Dadou ♂, was born of this adulterous congress. He also lives in this homestead. After Tien's death Nyaghok ♀ cohabited with his son, Juan ♂, to whom she bore a daughter, Mer ♀. See Diagram No. VIII.

[611]

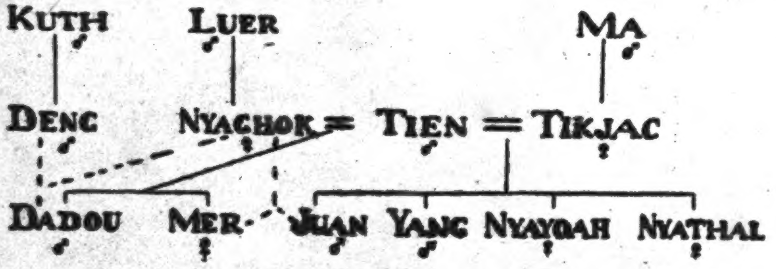

Diagram VIII

Homestead No. VIII. Nyaruithni ♀—Kwenwar ♂, the widow of 592
Rwacar ♂. She is now past child-bearing and does not cohabit with 837
any man. During Rwacar's lifetime she bore two children, but neither by him, both being the fruit of adultery. Her daughter, Nyakewa ♀, who was killed this year by lightning, was begotten by Luin ♂—Kwany ♂, a Lek tribesman, and her son, Malith ♂ was begotten by Gak ♂—Yol ♂, a Jikany tribesman. Her brother's son, Gai ♂—Karlual ♂, lives in her byre and looks after her herd.

Nyaruithni's sister, Nyaudol ♀—Kwenwar ♂, paid a visit to her homestead this year. When Nyakewa ♀ was killed by lightning Nyaudol's husband, Yoah ♂, was killed at the same time. Nyaudol ♀ says that since she is now a widow she will remain at Nyueny with her children by Yoah ♂: Wectwok ♂, Bilieu ♂, Gatdwiel ♀, and Nyankeni ♀.

Homestead No. IX. Karlual ♂—Kwenwar ♂. He first married Nya- 592
kuon ♀—Kok ♂. She died without children and the cattle were returned [586]
(Tang ♂—Karlual ♂ married a wife with them). Karlual ♂ then married

587 Karlual ♂ then married
Nyaweny ♀—Kong ♂ who is also dead. She bore him Tang ♂ and Gai
592 ♂. Lately he has married Nyariek ♀—Cang ♂ by whom he has an unweaned child. He has an unmarried concubine who was temporarily absent during my visit. She has borne him two sons, Twong ♂ and
[149] Kong ♂. Cattle have been paid to legitimatize Twong ♂ and more cattle
[431] will be paid to legitimatize Kong ♂.

Karlual's brother, Panyuan, lives in his byre, and his sister's sons, Nhial ♂—Rainen ♂ and Gaiuak ♂—Rainen ♂, spend most of their time there and house some of their cattle there.

Homestead No. X. Meat ♂—Col ♂. He is unmarried. In his byre
592 lives his half-brother, Wec ♂—Jany ♂, who has married a wife to the
736 name of one of his father's brothers. She has borne him Korwai ♂ (dead), Nhial ♂, Nyajuacni ♀, and Nyapuot ♀. As he has no cattle, he has sold his byre to Col ♀ of Homestead No. II, and as he is too lazy to cultivate a garden, his wife and family, to save themselves from starvation, live at her sister's home in another village. He wanders hither and thither and scrounges on other people. Another occupant of this byre is Meat's sister's son, Bilieu ♂—Lam ♂.

592 *Homestead No. XI*. Jal ♂—Ngunjuk (brother of Col of homestead No. II). The two brothers live at a distance because their wives do not
607 get on well together. His brother, Bol ♂, and his half-brother, Pan ♂, share his byre. Both are unmarried. Jal ♂ has married a wife to the name of his father's brother, Muong ♂—Ret ♂. This woman, Nyaluak ♀—Deng ♂ has bore him Cuong ♂ and Nyalia ♀. One of the huts in this homestead belonged to Jal's mother who died last year. See Diagram No. VII.

Homestead No. XII. Nyawal ♀—Col ♂. Her husband was Lam ♂ of
592 the Ngwol clan. She bore him Rwac ♂ (dead) and Nyakwoli ♀. After
● 588 his death she cohabited with Juan ♂ of the Jikul clan, by whom she bore Bilieu ♂, Nyakuan ♀, Nyalieth ♀, Ghuth ♂, Bathu ♀, and Nyalita ♀. She is past child-bearing and does not cohabit with any man. Her cattle are housed in the byre of her brother Meat ♂, of Homestead No. X.

592 *Homestead No. XIII*. Nyading ♀—Kulang ♂. Her daughter, Nyamani ♀, was married by Tang ♂—Karlual ♂ to the name of Ran ♂, a
588 brother of his father (though begotten by Kwenwar while Karlual ♂ was
[775] begotten by Jany ♂). Ran ♂ had died before initiation and his ghost began to kill Karlual's wives and children and had to be quieted by being married a wife. Nyamani ♀ lives with her mother, Nyading ♀, whose husband, Dak ♂—Jiong ♂, is dead. She bore Dak ♂ three children: Nyamani ♀, Nyaghok ♀, and Gai ♂. Dak ♂ by another wife begat Nyajaani ♀ who also lives in this homestead. Nyajaani ♀ was married by Pathol ♂—Nyaalbor ♂ of the Lual section and bore him a blind son who
[582] also lives here. She refused to live with her husband's brother when he died, so the cattle of her bride-wealth were returned. She was then married to another man and divorced by him. She now cohabits with Mokwac ♂ of Homestead No. XVI and has borne him a son.

Homestead No. XIV. Loc ♂—Jany ♂. He married a wife, Can ♀—Giling ♂ of the Reng section of the Jikany tribe, to the name of his dead brother, Gwanbul ♂—Jany ♂, who was killed in war. She has borne Loc ♂ a son, Col ♂. Jor ♂—Jany ♂ shares this byre. 592 588

Homestead No. XV. Nyading ♀—Thiep ♂. She died last year but as her hut is still standing she is included in this list. She was a wife of Jany married to him after his death by his son Gwanbul ♂ to whom she bore a son, Jor ♂, and three daughters. On the death of Gwanbul she cohabited with Mokwac of Homestead No. XVI but has not borne him children.

Homestead No. XVI. Mokwac ♂—Nen ♂. He shares this hut with Yuol ♀, widow of Diou ♂—Nhial ♂, an aristocrat of the Dieny section. She had three children by Diou, two being dead and one, Nyaroah ♀ being alive. By Mokwac she had a son, Thor ♂, who died, a daughter, Nyatiacni ♀, and a newly born daughter. Mokwac also cohabits with Nyadang ♀, of Homestead No. XXI. She has not borne him children but "cooks for him". Before her death Mokwac used to cohabit with Nyading of Homestead No. IV. He has no wife of his own.

Homestead No. XVII. Nyathagh ♀—Lagh ♂. A Dinka captive who was married to Dong ♂—Col ♂, a Jikul man. She bore him a daughter who died, and a son, Patai ♂. When her husband died he had no brother to cohabit with her and, being a Dinka captive, she had no kinsmen with whom she could reside, so she became concubine to Cel ♂—Thiep ♂, a leopard skin chief of the Keunyang section. She bore him Nyathat ♀, Nyaling ♀, Nyangiek ♀, Kur ♂, and Nyaduot ♀ (dead). On Cel's death she remained in his homestead, her present abode, and took a lover, Riek ♂—Juc ♂, of the Reng section of the Jikany tribe. She bore him no children and relations between them ceased. At present she has no lover. 592 727

Homestead No. XVIII. Nyadut ♀—Tweth ♂ (sister to Nhial ♂ of Homestead No. XXIII). She is a widow of Cuc ♂—Thol ♂ of the Riaagh clan. There were no children of this marriage and on her husband's death she lived in leviritic concubinage with Duob ♂—Cuc ♂, one of her husband's sons to whom she bore Leau ♂, Nyayoac ♀, Wany ♂, and another son. Duob ♂ was killed by Mokwac of Homestead No. XVI (compensation was paid but although Mokwac ♂ and Leau ♂—Doub ♂ live side by side they do not eat or drink together). For a while Nyadut ♀ then cohabited with Marial ♂—Kwong ♂ of the Gai section of the Jikany tribe. She bore him a child which died. Its death convinced them that they ought not to have had relations because Nyadut was *cek gwandong*, "grandfather's wife", to Marial. She now cohabits with Baranyai ♂ of Homestead No. III. She has borne him a daughter. Nyadut's byre has fallen down. People say that it will be rebuilt next year. 682

Homestead No. XIX. Yang ♂—Tien ♂ (brother of Juan of Homestead No. VII. when I asked why the brothers do not live together I was told *Juan mun me ce bec doreme, ce Yang ce bec doreme*, "Juan has a site which suits him down here, and Yang has a site which suits him up there".) Yang married Nyabeel ♀—Dec ♂ but she died, with her baby, in childbirth as a consequence of incest. She had incestuous relations both with a kinsman of her husband and with a kinsman of her own. (As she brought death on herself Yang ♂ did not have to compensate her kinsmen for her death.) 592 684 835

592 death.) Yang ♂ cohabits with Nyabuk ♀—Riaagh ♂ who lives in his
homestead. She is a widow of Thiac ♂—Jok ♂, of the Diany section.
By her husband she bore Nyalani ♀ and by Yang ♂ she bore Nyawura ♀
[764] who was killed by lightning and is honoured by a ceremonial post in
Yang's homestead, Jany ♂, Nyabiel ♀, Nyangir ♀, and two other children
who died. Yang ♂ is betrothed to a girl but she has not yet borne him a
child and still lives with her parents.

592 *Homestead No. XX.* Dhoal ♂—Cuc ♂ (a Dinka who was given Nuer
588 kinship). He had relations with Gol ♀—Gek ♂, an unmarried girl, who
bore him Rwac ♂. The mother is dead and the boy has been legitimatized
by payment of a fee. He has recently been initiated in Dhoal's homestead.
Dhoal ♂ now cohabits with Nyabiem ♀—Kan ♂, a widow of a
man of the Jwal clan. She lives in Dhoal's homestead. After her
husband's death Nyabiem cohabited with one of his kinsmen, Gany ♂—
Bul ♂ to whom she bore Nyagac ♀, at present living with her mother.
She came to live with Dhoal ♂ after separating from Gany and bore him
Nyabilieu ♀ and another daughter who is still an infant. Dhoal ♂ also
cohabits with Nyadhiac ♀ who lives in an adjacent homestead, No. XXIV,
and has begotten several children by her; and with a young woman of the
Dok tribe who has run away from her husband in Dok country and taken
up her residence in Dhoal's home. She has not borne him any children
but is said to be an excellent cook. As her husband's cattle have not been
returned she is living in adultery with Dhoal but since she refuses to live
with her husband and since she is a member of a distant tribe she counts
as equivalent to a widow-concubine and is not counted as an unmarried
concubine.

592 *Homestead No. XXI.* Nyadang ♀—Luk ♂ (of the Jikul clan). She is
588 a widow of Dit ♂—Bicuk ♂ of the Keunyang section. Her only living
593 child by her husband is Nyakwoli ♀. Two are dead. After her husband's
death she cohabited with Baranyai ♂ of Homestead No. III. By him she
bore a son, Galuak ♂, who lives with his genitor, twins who died, and
another son, Bol ♂, who was drowned when crossing a river during flight
from a Government punitive expedition. Owing to these deaths Nyadang's
genealogy was more closely enquired into and it was discovered
that she was distantly related to Baranyai. They thereupon ceased to
cohabit and Nyadang took Nhial ♂—Tweth ♂, of Homestead No. XXIII,
as a lover. She bore him Nyabilieu ♀ but left him because he used to
beat her and she now cohabits with Mokwac of Homestead No. XVI..
She has not borne him any children but "cooks for him". Nyadang's
unmarried brother, Wal ♂—Luk ♂, lives in this homestead.

592 *Homestead No. XXII.* Nyagany ♀. She is barren. She was divorced
588 by her husband, Deng ♂, a Lek tribesman, and then cohabited first with
Mok ♂—Jang ♂, another Lek tribesman, then with a Rengyan tribesman,
and at present with Mabil ♂—Wel ♂ of the village of Nyang.

592 *Homestead No. XXIII.* Nhial ♂—Tweth ♂ (brother of Nyadut ♀ of
595 Homestead No. XVIII). He is Bor tribesman. He has two wives:
Nyabath ♀—Lam ♂, a Jikany woman of the Gai section, by whom he has
a small son; and Nyantual ♀—Deng ♂, a Jikany woman of the Gom

section, whom he has recently wed. She still lives with her parents and 592
has not yet brought the infant daughter she bore Nhial to his home. At 595
one time Nhial cohabited with Nyadang of Homestead No. XXI. The
byre in his homestead has fallen down and will soon be rebuilt.

Homestead No. XXIV. Nyadhiac ♀—Wal ♂, a widow of Galuak ♂— 592
Thol ♂. She bore her husband Tap ♂ who lives in the homestead of 587
Dhoal ♂ of Homestead No. XX. Dhoal ♂ now cohabits with her and she
has borne him Gai ♂, Puot ♂, Nyagwar ♀, Laoth ♂, Nyakwoli ♀, and a
female infant. This cohabitation would be regarded by Nuer as leviritic
concubinage because Galuak ♂ and Cuc ♂, the father of Dhoal ♂, were
both sons of Thol.

Nyadhiac's mother, Nyaleeni ♀, a very old Baggara Arab captive, lives [727]
with her.

Homestead No. XXV. Kwol ♂—Kwoth ♂ (Kwoth ♂, Galuak ♂, and 592
Cuc ♂ were brothers). Kwol is unmarried. His mother, Nyamani ♀—Kulanga ♂, a Bor woman, and his brothers, Buth ♂ and Duoth ♂, and his sister, Nyaliah ♀, live in the same homestead. He shares his cattle-byre with Nhial ♂, of Homestead No. XXIII, and two sons of Dit ♂, Rwot ♂ and Wecjok ♂ (Homestead No, XXVI).

Homestead No. XXVI. Nyaluak ♀—Yoah ♂, widow of Dit ♂—Bicuk 592
♂, to whom she bore Rwot ♂, Yangdoah ♀, Nyakur ♀, Nyampath ♀, and 588
Wecjok ♂. After her husband's death she cohabited with Carou ♂—Gwec ♂ of Nyang village to whom she bore Nyibol ♀, Ging ♀, and Nyaduoth ♀. She is now past child-bearing. She is a noted diviner and magician. The byre of this homestead fell down last year.

The information collected about matrimonial conditions at Nyueny is 583
not full enough to allow a very fine classification but a crude analysis in the form of a summary may be presented. There are thirty three women in the village who have either been married or have borne children. The number includes only women living in the village as their normal residence and not such women as Nyaudol ♀—Kwenwar ♂ even though she has declared her intention of settling there; nor the wife of Nhial ♂—Rainen ♂ because she has gone back to her own people and he is almost certain to divorce her; nor the unmarried woman who was living as Nhial's concubine because she was a bird of passage. I have not counted women, recently married by men of Nyueny, who are still living in the homes of their parents. These thirty-three women are living in the domestic conditions shown in the first column.

The second column presents an analysis of all the different types of union to which the thirty-three women are known, at one time or another, to have been partners. The second column does not pretend to the accuracy of the first for I did not attempt to record the complete domestic history of each woman, though much information about them was collected in the course of a general enquiry. It is hoped, nevertheless, that the second column will be of service in correcting any distortion in the first, for, except for unmarried concubines who have not been married and afterwards divorced, all the women have at one time lived in the union of one or other form of marriage. I have not attempted to estimate the number any other place as his home. But when he reaches manhood the sense of kinship so strong in Nuer, and the desire for the cattle of his pater's heritage, attract him to the village of his true paternal kinsmen. 604 428

Which group he finally joins depends on a number of conditions. The most important of these conditions is the existence of close kinsmen of the pater for if he left behind him brothers they are almost certain to want their child to live among them. Thus where we find adult sons living with their genitors in Nuerland it normally means that they have no very close agnatic kin whom they may regard as "fathers" and "brothers".

A further factor, closely bound up with that of the existence of close agnatic kin, is the disposition of herds and the allocation of rights in them. During a man's lifetime he usually divides his herds among his wives but they have only use of the cattle for milk and have no rights of disposal in them. They hold them in trust for their sons who after initiation have full control over them. When I suggested to Nuer that the widows might disperse and take the cattle to the homes of their brothers and lovers my remarks always evoked disapproval. "That is impossible. The eldest son (if initiated) would not allow it. He would say 'These are our father's cattle. They must remain in our father's byre'." If the widows scatter, the children and the cattle must remain in the homestead of the dead man. That is the rule and it is only when the dead man has no close kinsmen to enforce it that the widows may remove the children and the cattle. Even if they are permitted to do so the brother, or lover of a widow would take a serious risk were he to dispose of the cattle, [578] for when the sons grow up he will have to give an account of his stewardship and if he has disposed of the cattle it is not unlikely, Nuer tell me, that one of the sons will split his head open with a club.

A widow is only allowed, in normal circumstances, to keep the cattle if she remains in her dead husband's village and takes a lover or is visited there by a lover from another village. If she goes to a lover's home she may, perhaps, take a cow to nourish her babies but the herd will remain with her husband's brothers. In either case the lover has no control over the cattle though sometimes the widow and her children, if she retains the herd in her husband's home, may assist the lover to marry by giving him the right. Thus Nyamani ♀ (Homestead No. IV) gave Panyuan ♂ a cow to assist him to marry, but Bilieu ♂, her son, was old enough to understand what was happening and to give his consent. Nuer say that if a lover managed to use the cattle without hindrance at the time his sons would drive him away when they reached manhood and might even injure him. They would also raid (*kwal*) his herd to recompense themselves.

I do not know of a single instance among the widows who have left their husband's village and come to live at Nyueny where one of them has brought cattle with her. The cattle have been kept by the kinsmen of their husbands and the widows "have come to Nyueny only for children." 588● 428

It is only in rare instances, where the pater has no close kinsmen, that a lover becomes guardian of the children and trustee for the cattle. When the daughters are married the "cattle of the father" and the "cattle of

588 428 the mother" may then mix with the genitor's herd and he held in trust by him for the brothers of the brides. In such cases the genitor has assumed the full responsibilities of a pater and the daughters will be married from his home and the sons initiated there. Even so the widow and her lover may occupy nearby but separate homesteads, each family keeping itself spacially distinct as they are legally distinct. Panyuan's father-in-law and mother-in-law live in such circumstances.

Since a lover does not have control over the pater's cattle he is at a serious disadvantage when his natural sons grow up for they will want to own cattle both for display and for marriage and are drawn irresistibly to the home of their pater's kinsmen in whose charge are the cattle. It would be very difficult for a boy to remove the cattle to the home of his his genitor. That would cause a row of the first magnitude. A dead man's cattle must occupy his byre till his son is old enough to be initiated and to take his father's place in the byre. It is only when a genitor is rich in cattle and his natural son is assured of marrying a wife from his herd while his pater's kinsmen are poor and have no cattle to give him that he might remain with his genitor instead of joining his uncles. I think that this is rare. Where there are full-brothers of the pater alive and where the pater's herd still exists there are these two powerful magnets, sentiment of kinship and sentiment of cattle, drawing a boy away from his mother and his natural father.

Of the two, sentiment of kinship is perhaps the stronger. A man who lives in his genitor's homestead and village is always to some extent an outsider living there on sufferance. A man who lives in his pater's homestead and village is there by right of birth. The byre he sits in is his own byre. When he sprawls in contentment in the ashes of the *gol* (household) it is his own *gol* and from it he watches his own herds. He is one of a band of owner-kinsmen. To one he is a son, to another a brother, to yet another a father. Hence a Nuer said to me when explaining the position of a boy born of a widow-concubine: "He will visit his mother and the man who begat him now and again, sometimes for a month or two, but his home is the home of his dead father."

A youth's allegiance also to some extent depends on the precise nature of the widow-concubinage in which he is born. If the widow continued to live in her dead husband's village or if she went to live with her own people and was merely visited from time to time by a lover for procreative purposes the genitor counts for little. But if her lover formed part of her household, even if not entirely resident there, he is of greater importance and the children will retain their affection for him and pay him frequent visits if he is later separated from them, for they will be brought up among their paternal or maternal kinsmen while he may return to live among his own people.

588 428 593 When the widow lives at her lover's home and the children are brought up there the relations are more complex. The genitor has no legal control over his sons and if one of them has a disagreement with his genitor he will join his true kinsmen without qualms. It is to his interest to join them and if it is also his inclination to separate from his genitor his depar-

ture will be easy and final. But normally the bonds of affection between 588
genitor and his sons are strong because the genitor, knowing how deep an 428
influence feelings of kinship and cattle interests will have on his sons when
they grow up, tries to win their love while they are still small so that it 593
will endure all the changes of life. He pets them, feeds them, attends to
their infant needs, and plays with them.

A Nuer once said to me: "When a man has a son by a widow-concubine he wishes the child to be with him the whole time so that when the child grows up he will know him and not desert him but remain in his home." Another Nuer said: "A man will be irritable with his own [831]
son and swear at him saying, 'I will commit sodomy with your mother right now', but he will not speak thus to his son by a widow-concubine. He pets him and wins his affection so that he will stay with him always."

Yet however strong the affection between a genitor and his sons born in widow-concubinage they often desert him when they grow up and go to live among their own kinsmen. This is a great stumbling-block to Nuer. You love and nourish the children of your loins but one day they say that they are going to the *gol* (household) of their father who married their mother with cattle. "You think how when they were little you carried them in your arms and played with them and fed them with titbits, and now they have gone to live with a man who did not bring them up, because it was with his cattle that their mother was married." People say: "Look at the *gol* (household) of so-and-so. It was once strong in young men. Now his *gol* is weak. Oh these children of widows!" They say also: "Better the children of an unmarried concubine for they are your own children. They may visit the home of their grandparents (maternal) but they are children of your *gol* and they will not desert you when you are old. But the children of widows will grow up and yearn for their own people and leave you who have brought them to manhood."

Sentiment and self-interest draw a man away from his genitor and foster-father towards his kin. His kin welcome him to his paternal home and give him the full status and privileges to which his birth entitles him. The stigma of being born a *gat laka*, a "child of widow-concubinage" is not attached to a man in his pater's village. He is by rights a member of his pater's group and Nuer do not consider it ignominious for him to have been born in concubinage. On the other hand a man who remains in his genitor's village may have the stigma of his birth cast in his teeth in quarrels. People may speak contemptuously of him as *gat l.meneme*, "that son of a concubine". I was told that the boys of the genitor's household would be careful not to make remarks in his hearings for he would be angry if he heard them, and that they would not allow an outsider to insult the boy with impunity. But the genitor's legal sons, his natural half-brothers, may let him see that they do not regard him as one of themselves. If he is unhappy in his genitor's village he may join his pater's people or, if there are no close kinsmen of his pater alive, he may go to his maternal uncle who will not refuse him a home and cattle. But

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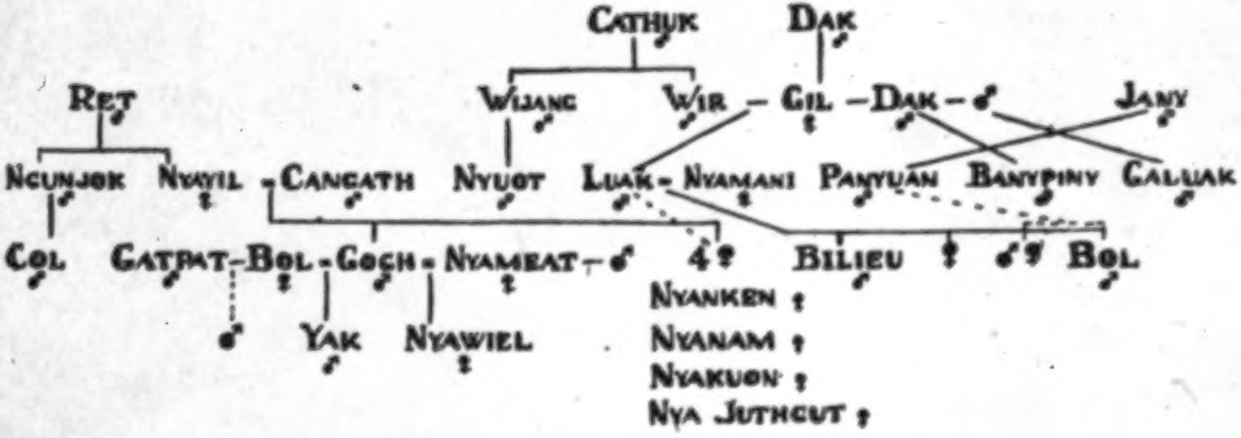
CATHUK
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NYAYIL
CANGATH
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NYAMEAT
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BILIEU
BOL
YAK
NYAWIEL
NYANKEN
NYANAM
NYAKUON
NYA JUTHGUT

Diagram IX

if his genitor gave him cattle the sons of the house would not let him take them to another village. 588

However, as stated previously, one cannot be certain in any given case what will happen and it is only possible to indicate general principles from the statements of Nuer, particularly from their statements about actual cases. 428 593

An instructive and typical case is that of the family of Luak ♂ (see Diagram No. IX). Luak was the son of an unmarried concubine, Gil ♀, who cohabited with his father, Wir ♂. At other times she cohabited with Dak ♂, by whom she bore a son, Banypiny ♂, now dead, and with a Jikany tribesman by whom she bore another son, Galuak ♂, also dead. When Luak ♂ grew to manhood he lived with the widow of Cangath ♂, named Nyayil ♀ who bore him four daughters. He also brought up Gogh ♂, a son of Nyayil ♀ by her husband. There were strong ties of affection between Gogh ♂ and Luak ♂, and when Gogh ♂ after his country had been raided by a Government patrol came to Nyueny to live with his maternal uncle, Ngunjok ♂, his foster-father (Luak) accompanied him. Gogh ♂ died from a fishing-spear wound received at a scramble for sacrificial meat. He left two widows, Nyamcat ♀, who now cohabits with a Lek tribesman and Bol ♀, who now cohabits with Gatpat, a Dok tribesman in Government employ. Bol ♀ has borne Gatpat ♂ a male child.

When Luak settled at Nyueny he married Nyamani ♀ (Homestead No. IV) by whom he begat a daughter, who is married, and Bilieu ♂, a boy who is about twelve years of age. When Luak ♂ died there were no kinsmen closely enough related to Bilieu ♂ to take charge of him, Luak's two uterine brothers having predeceased him, so he and his mother remained in his father's home. His nearest agnatic kinsman was Nyuot ♂, Luak's father's brother's son.

The widow Nyamani ♀ then became concubine to Panyuan ♂ of Homestead No. IX. She bore him twins who died and Bol ♂ who is alive. Panyuan ♂ lives with his brother, Karlual ♂, but spends a great part of the day at Nyamani's homestead and, were she not pregnant, would be sleeping there at night. He is a hard-working gardener and the garden he has cultivated for Nyamani ♀ is one of the most extensive and best-weeded at Nyueny. He acts as a father towards both Bilieu ♂ and his own son Bol ♂, and would like to bring them up as if they were his legal sons and to make them permanent members of his byre and to initiate them at his home. He assured me again and again that he would never willingly consent to their departure from the village. So far all is well. The paternal kinsmen of the boys show no great interest in them and in any case would find it difficult to interfere with the family while it remains in Luak's homestead. As Panyuan ♂ said about himself and Luak ♂: "After all we are members of the same local group (*wec*)".

But Panyuan ♂ is well aware that he has no legal control over the children and that when Bilieu ♂ is initiated next year he may lose them for Bilieu ♂ will then be head of the family and will have control over his brothers and sisters and the cattle. If he and Panyuan ♂ do not agree together or if the village does not suit him he may migrate to his father's

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kinsmen and take his family with him. It is quite likely, moreover, that Panyuan ♂ and Nyamani ♀ will drift apart when Panyuan ♂ brings his recently espoused bride to his home, for she will be mistress of the home and reside in it whereas Nyamani ♀ will remain in her dead husband's home. It is not feared that the two women will quarrel but it is anticipated that Panyuan ♂ will naturally no longer feel his interests so bound up with Luak's family when he has a family of his own. At present, from Bilieu's point of view, Panyuan ♂ is attached to Bilieu's family and homestead, but when Panyuan ♂ becomes an independent householder it is they who will be living as an adjunct to his household. I was told that the relations between the new wife and Nyamani ♀ are likely to be influenced by the fact that the new wife belongs to the Gaawar clan and Nyamani ♀ to the Jwal clan. Members of these two clans may not share the same shelter during rain, a prohibition that makes close domestic intercourse difficult during the rainy season.

The family possess very few cows and these are tethered with Panyaun's cattle in his brother's byre. Bilieu's elder sister ran away with a man and Bilieu ♂ being still a boy was unable to extract cattle from him. His kinsmen did not offer to act on his behalf in the matter, Panyuan ♂ had no locus standi, since he was not the [illegible]l's pater or his representative. When Bilieu is initiated he will insist on bride-cattle being paid.

When I have suggested to Panyuan ♂ that he may one day lose his children by Nyamani ♀ he has always refused to countenance the suggestion, saying: "They are my children and will remain at my home." But he knew well enough that the decision will rest with Bilieu ♂, who though still a boy, understands the position clearly and knows his rights. If they disagree they will try to settle the matter amicably because if either the living genitor or the ghostly pater is angered the children may die. If Bilieu ♂ says that he is going to move and to take his cattle with him Panyuan ♂ may ask for his children to remain with him and for the cattle to be divided but Bilieu ♂ would be against such a proposal. What finally happens will depend most on the wishes of Nyamani ♀ for Bilieu ♂ will listen to his mother's advice. My own opinion is that the whole family will move during the next few years and that they will leave a few cows with Panyuan ♂ in recognition of his services.

Panyuan ♂, therefore, as other men in his position, tries to bind his sons to him by strong ties of affection. Bol ♂ accompanies him everywhere, holding his hand, sitting on his thighs, and playing with him. He is overjoyed when he sees his father coming and weeps when he sees him setting out on a journey. Panyuan ♂ is his father, comrade, protector, and playmate. The road to children's regard being through their bellies Panyuan ♂ always brings back from a feast choice titbits for his little son. He also treats Bilieu ♂ with kindness and indulgence and tries to win his affection but in Bilieu's case it is not so easy because he knew his real father.

Panyuan knows that once he has won the affection of the children, they will not forget him when they grow up and, that even if they move to another district they will often visit him and spend weeks at his homestead. If they are in trouble in their new home they will think of their father who

brought them up and of his old kindness and will join him again. The 588
bond of love will never be entirely broken.

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If a genitor wins the affection of his sons in this way he may be able to
keep them with him, especially if he and the kinsmen of the sons occupy 593
the same village. Thus Galuak ♂--Diet ♂ lives with his genitor although his mother and his legal brothers are living at the other end of Nyueny. Galuak is now a man and can decide for himself in which homestead he wishes to reside and as he lives in their village his brothers do not object to his remaining with his genitor. Baranyai is a very straightforward man and his son knows that he will be able to marry a wife from his genitor's herd when he is old enough to do so. His interests need not therefore conflict with his affections. His relations with his legal brothers are harmonious but " they have the business of cattle between them. That is all ", i.e. they have the legal status of brothers and cattle of the bride-wealth of kinsmen are divided accordingly, but they do not otherwise behave as brothers.

Nevertheless, if I were to bet on whether a man remains finally with the people of his pater or the people of his genitor I would always back the pater's side. Most experienced Nuer take this view. Thus when I consulted Karlual ♂ about the relation between his brother Panyuan ♂ and the children of Nyamani ♀ he gave it as his opinion that Panyuan ♂ might keep his children by winning their affection and by retaining the goodwill of their mother though he considered that it was most unlikely that he would keep them, and added that if the family wished to move Panyuan ♂ would be unable to prevent their departure.

He quoted his own case in support of this view. He at one time lived with Mer ♀, the widow of Nyong ♂—Bidiit, by whom he begat two children, Nhial ♂ and Nyaluk ♀. He brought them up in his home and Nhial ♂ was even initiated there, but one day in his absence the widow departed, her children with her, to Rengyan country to the home of Dang ♂, her dead husband's son by another wife. Nhial ♂ is most unlikely to join Karlual ♂ because the only reason for doing so would be a quarrel with his half-brother Dang ♂ and since he has his own herd the most frequent occasion for quarrels between brothers is lacking.

Karlual also at one time cohabited with Nyapini ♀—Wic ♂, the widow of Bup ♂—Thol ♂. She bore Karlual ♂ two children Gaac ♂ and Nyatop ♀, before she was killed by lightning. Both children are now living with their pater's kinsmen and Karlual has no hopes that they will ever come to live with him.

Karlual is himself a *got laka* (son of a widow-concubine) and though his own history illustrates the circumstances in which a genitor may retain the children of a widow-concubine it also shows how powerful are sentiments of kinship even when conditions are least favourable to their
growth. 587

Kwenwar ♂—Cueny ♂, an aristocrat of the Lang tribe married Nyajal 588
♀. He died in a year of famine shortly after his marriage and his wife 428
came to live with a man of the Juak clan in Karlual tribe. This man, 593
Jany ♂, was for a time ignorant that Nyajal ♀ was married and thought

587 she was an unmarried concubine.
●588 By her Jany ♂ begat Karlual ♂,
428 Gogh ♂, Baranyai ♂, Nyaudol ♀,
593 and Nyaruithni ♀. Jany also
married a wife, Nyamani ♀, to the name of his dead father, Col ♂, because he thought that his father ought to have a second wife. By her Jany begat Nyadang ♀, Nyawal ♀, Meat ♂, Panyuan ♂, Nyakwoth ♀ (married in Lek country), and Nyangir ♀ (married in Jikany country). Jany ♂ also had relations with an unmarried concubine Nyalieth ♀, by whom he begat Loc ♂, Lathjor ♂ (dead), Gwanbul ♂ (dead), Bi ♂ (lives in Lek country), and Wec ♂. After Nyalieth ♀ bore her first child, Jany ♂ paid some bride-cattle to her kinsmen and the ceremony of invoking the cattle was performed to legitimatize the union. Jany ♂ also married Nyaluak ♀—Gai ♂ by whom he had a daughter, Nyabiel ♀. On Jany's death his son, Karlual, cohabited with this woman but she died at his home without having borne more children. Karlual ♂ brought up her daughter but she died recently while betrothed to a Jikany ♂ tribesman. When Jany ♂ died he was betrothed, but not married to Nyading ♀—Thiep ♂. Following the usual practice this woman was therefore married to his name after his death (*Caa kwen jokde*) by one of his sons, Gwanbul ♂, to whom she bore Jor ♂, Nyagaagh ♀, Nyangir ♀, and Nyabilieu ♀. She died last year, Gwanbul having been killed in war some years earlier. Jany ♂ lived originally at Puic but when the fighting between the Riaagh and Doang sections compelled the Riaagh people to move to Lual country, Jany came with them.

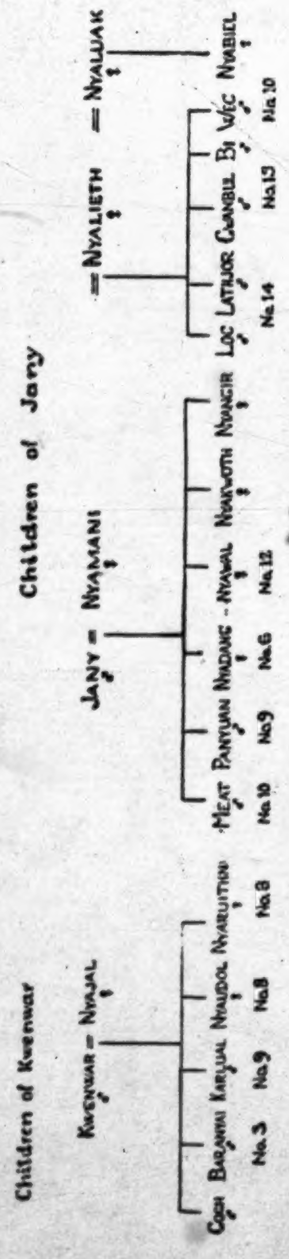
Children of Kwenwar
Kwenwar ♂ = Nyajal ♀
Gogh ♂
Baranyai ♂
Karlual ♂
Nyaudol ♀
Nyaruithni ♀
No.3
No.9
No.8
No.8
Children of Jany
Jany ♂ = Nyamani ♀
= Nyalieth ♀
= Nyaluak ♀
Meat ♂
Panyuan ♂
Nyadang ♀
- Nyawal ♀
Nyakwoth ♀
Nyangir ♀
No.10
No.9
No.6
No.12
Loc ♂
Lathjor ♂
Gwanbul ♂
Bi ♂
Wec ♂
Nyabiel ♀
No.14
No.13
No.10

Diagram X

In the case of Nyajal there were a number of circumstances highly 587
advantageous to the genitor of her children. Kwenwar had died without 588 ●
leaving brothers or sons behind him, his other wife and her son having
died also. There were, therefore, no close kinsmen of their pater with 428
strong enough feelings of kinship towards Nyajal's children to claim their 593
custody. Absence of close paternal kinsmen also meant that there was no magnet to draw the sons away from their genitor, for a youth who might desert his genitor and foster-father to take up residence with a full brother of his pater would not desert him to reside with a more distant kinsman of his pater, for this man would not feel that he stood towards him in the place of a pater. Moreover Nyajal remained with her lover and did not wander from place to place as some widow-concubines do, so that the group had all the stability of a simple legal family.

It was therefore possible for Jany to bring up his family free from outside 587
influence. When Nyajal's eldest daughter was married Jany made a 588
declaration at the marriage talk: "These are the children of my loins
and I brought them to manhood. It shall not be said that they are the 428
children of any man but Jany. Therefore I shall take as my portion of 593
the bride-cattle a cow and a calf and an ox for my loins and, besides these, 431
a cow of the spirits shall be mine. And by this it shall be known that the children of Kwenwar have a right (*cuong*) in the cattle of my daughters' marriages. But if I do not receive a cow of the spirits they will have no right in the cattle of my daughters' marriages. They shall be counted the sons of Kwenwar and not the sons of Jany. But let the people in the byre hear: they are the sons of Jany and have rights in the cattle, for I will take a cow of the spirits, and no man shall point to them and say 'They are born of a widow-concubine' (*ce ka de nyuoth lak*).

This speech of Jany, recounted to me by one of his sons, contained the following implications: I begat these children and brought them up and the kinsmen of their pater have taken no interest in them. Therefore, as begetter and foster-father of the girl about to be married I want as my share in the bride-wealth not only a cow and its calf and an ox for having begotten and nurtured the bride, but I also demand a cow to be dedicated to the spirits of my lineage to show that I am really her father. If my demand is accepted then I agree that in the marriage of my daughters by my other wives the children of Kwenwar whom I have begotten shall have the same rights as my own children in their bride-cattle. When the bride-cattle are being divided we will not regard them as Kwenwar's children but as my own children. Thus we shall give them rights in the bride-wealth (*cuong ka*).

Normally, the "cow of the spirit" would go to the pater, or his heir, as a dedication to the spirit of their lineage so that when Jany asked for it to go to him to be dedicated to his lineage he was suggesting that his status should be recognized as that of pater rather than that of genitor. In law the sons of Kwenwar need not receive any cattle of the bride-wealth of daughters of Jany by other women because the "cattle of the father" would go to the legal sons of Jany and the "cattle of the mother" likewise. The recognition of Jany as a kind of pater in respect of bride-wealth

587 would therefore be balanced by the acceptance of the sons of Kwenwar as
588 though they were the sons of Jany in division of bride-wealth.

The children of Kwenwar and the children of Jany are figured in
428 Diagram No. X. As previously explained, the persons shown there as
593 the children of Jany by Nyamani are legally the children of Col, the father
431 of Jany. However, in the village they are always known as *gaat Jany*, "the children of Jany" and their womenfolk always speak of *kon man gaat Jany*, "we, the womenfolk of the sons of Jany". At the present time the distinction is entirely one of nomenclature since Jany married Nyamani in ghost-marriage. Likewise in the same diagram the children born of Nyading who was spouse in ghost-marriage to Gwanbul, a son of Jany, who took her in marriage to his father's name, are omitted. For we are now treating of bio-social actualities rather than legal configurations and these actualities can be understood better if all legal configurations, other than those strictly relevant to the particular problem being discussed are omitted.

587 How strong are the ties of legal affiliation where the pater belongs to one
588 clan and the genitor to a different clan may be seen in a difficulty that arose
between the sons of Kwenwar and the sons of Jany during my residence
428 at Nyueny. The sons of Kwenwar said that as several of their wives and
593 children had died in recent years they intended to move to Lang country,
578 to the home of the kinsmen of their pater. The sons of Jany are opposed to this move. They say that they have always accepted the sons of Kwenwar as brothers, and that they have always treated them as such in division of bride-wealth. They have always given them the support which brothers are supposed to render to each other. They now recollect with bitterness all the bride-cattle of their sisters that they have so generously divided among the sons of Kwenwar, for on the marriage of each of their sisters the sons of Kwenwar have received a share of "the cattle of the father" when it would have been to the advantage of the sons of Jany to have treated them as members of a different family and lineage, a social distinction which they are now putting forward in favour of their contemplated move.

Panyuan ♂ told me that if the sons of Kwenwar move this principle of share and share alike will be abandoned and that in future each of the two legal families concerned will insist on their strictly legal rights (*cuongde*). The sons of Kwenwar will no longer profit by their generosity. They may ask for what is their legal due but will receive no more. According to Nuer ideas they might claim a cow or two on the marriage of Jany's own daughters even if they could not insist on their claim. But, in fact, they have received the major part of the bride-cattle of each daughter, because, being the eldest sons, they were the first to marry. Panyuan ♂ felt very sore at their talk of departure and recounted to me in detail all the cows
587 and oxen they have received from the sons of Jany.

588 Baranyai ♂ is the most anxious to move. Panyuan ♂ told me that
428 Baranyai ♂ thinks if the sons of Kwenwar go to Lang country they will be
593 among their true kinsmen, but that they will find that the sons of Jany
are their real kinsmen when they have lived there a short time. They

will soon discover that no one in their pater's home cares about their 587
welfare. Then they will return to their brothers, the sons of Jany.
"For a man thinks that he will profit himself if he goes to a distant 588●
country but there comes a time when he remembers the place where he 428
was born and his heart yearns for the place of birth and he returns there". 593

If Baranyai ♂ departs Karlual ♂ will certainly accompany him and will take his son, Tang ♂, with him. His other son, Gai ♂, would like to accompany them but he is looking after the herd of his aunt, Nyaruithni ♀ and, although she is a daughter of Kwenwar, she refuses to leave the village so soon after her daughter's death by lightning. If her brothers go she will probably follow them in the next two or three years and then Gai will accompany her. Possibly Gogh ♂ will join them also.[1]

Thus, although in everyday speech, all these people call themselves children of Jany and not children of Kwenwar so much so that Karlual could tell me the ascendants of Jany in full whereas he knew very few of the ascendants of Kwenwar yet they belong to distinct lineages, clans, and even tribes. Though people have always regarded them as a single family, yet they belong to two distinct families, and not only in a formal legal sense, for we see how strong an influence legal descent may be in influencing behaviour when these sons of Kwenwar wish to depart to the home of a pater whom they never saw and of whom they know very little and to reside among kinsfolk who have shown scant interest in their concerns.

For had Kwenwar close kinsmen they would have visited " their sons" and might have taken them from Jany and brought them to their father's home. At least they would have got to know them so well that when they grew up they would have known that they would receive a welcome from familiar kinsfolk and would receive the full privileges of close agnatic kinship should they come to live among their paternal uncles and cousins. But the surving kinsmen of Kwenwar were distant kinsmen and they only visited Jany and his sons when cattle were due to them on the marriage of his daughters by Nyajal. Consequently they were brought up as sons of Jany and to regard the Juak clan as their own people.

While Baranyai ♂ talks of going to his pater's country he asserts a principle of paternity that he denies when he says that he wishes his natural son, Galuak ♂, to accompany him. Though Galuak's legal brothers, the sons of Dit ♂, have not objected to his living with Baranyai it is village opinion that they will strongly oppose his leaving their village. They cannot compel him to remain but they can use the strong appeal of kinship to persuade him. Thus Yang ♂, of Homestead No. XIX, said to me about Galuak: "His mother is with us. She is the wife of our people. He will remain with us and build himself a byre and be among his father's kinsmen". Yang said that Galuak will not live with his brothers but will remain in their village among the Riaagh people who married his

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[1] Gogh ♂, who is married, lives in the neighbouring hamlet of Nyathiang, of the Riagh lineage. He and his brothers lived here after leaving their original home at Puic. When his brother came to Nyueny, Gogh ♂ decided to remain at Nyathiang for the time being.

587 mother. I expect that if Baranyai moves Galuak will accompany him
●588 but that, if Baranyai does not return to Nyueny, Galuak will one day by
himself.

428 Nuer say that it is always the same with sons of widow-concubines.
593 One day a longing to join their kinsmen overcomes them and they leave their genitor. When Nhial was talking to me about this subject he said: "Look at the sons of Gwanbul, Thak ♂, and Thor ♂, whom he begat by Nyanor ♀—Let ♂, the widow of Doub ♂—Mayan ♂. The sons of Jany brought them to manhood and now where are they? Have they not gone to live with their own people in Jikany country? When they visit the brothers of their father (genitor) is it not to beg for a gift?"

I have mentioned that the future residence of the sons begotten by Panyaun will largely depend on the attitude of their mother. Also in Galuak's case the fact that his mother will remain at Nyueny among her husband's people is likely to prove a decisive factor in persuading her son to return there also. A genitor has small chance of keeping the children if he cannot keep the mother. A case in point is that of Juan ♂. Nyawal ♀ (Homestead No. XII) was married to a Ngwol man called Lam ♂ to whom she bore two children. On her husband's death she went back to her own people, the sons of Jany, and in their village cohabited with a Jikul man named Juan ♂ to whom she bore six children. Juan ♂ is now blind and lives among the Jikul because Nyawal ♀, by this time too old to bear more children, quarrelled with him as widow-concubines so often do with their lovers, according to the Nuer, for "when a widow-concubine has finished child-bearing she has no more use for her lover". As his children have been brought up by their maternal uncles they remained with their mother.

In this case the weakness of the natural family is well shown, because if Juan had been their legal father, or even a legal substitute for their father, the sons at any rate would certainly have followed him and left their mother. As it is they feel that their genitor's people are not such close kinsmen as their maternal relatives, for relatives of a genitor never acknowledge his children as true kinsmen, for they belong to the lineage of their pater. People say that since Juan is now blind he will come to live with his sons at Nyueny because he is very devoted to them, and they to him. Bilieu, the eldest son, was clearly fond of his father and it was touching to see his younger brother, Ghuth, leading his blind father from place to place when he visited the village.

A genitor is by no means an unimportant person in Nuer society. Even when he has had little to do with his children he is united to them by a mystical bond. If he feels ill-disposed towards them he may by mere disposition cause them an injury. In very favourable circumstances the children may be initiated and married from his home and have filial regard for him alone. If circumstances are not favourable and his sons desert him they will often visit him, sometimes spending a season at his home. Whichever group a youth joins, his pater's, his genitor's, or maternal uncle's group, the members of the other groups will not refuse to help him if he is in difficulties, for even with his genitor's people he has

a kind of kinship. Very often when a man has no legal children of his 587
own he will join his natural children in their pater's village, as it is suggested 588 ●
that Juan will do and as Luak, the father of Rainen and Dol (Homestead 428
No. VI), did.

A youth often asks his natural father for a gift. In fact *liem*, the begging 593
of a gift, is considered highly typical of this kind of father-natural son relationship, particularly when the son wants to marry, for he may then ask his father for a cow. I was told that "The father will not care to refuse his request for it is his own son who makes it". If he can afford it he may even give him two cows. The son is not demanding a right (*cuong*) but a privilege by an appeal to affection (*liem*).

A man respects the totemic and other spirits of his genitor and he will not marry into his genitor's lineage. If the bond between a man and his natural son is a very strong one they may act towards the kin of their genitor on the same pattern as they act towards the kin of their true agnatic kinsmen, e.g. in assisting them to pay compensation for homicide and to pay bride-wealth. Natural descent is also recognized in performance of ritual. Thus at a ceremony I witnessed at Nyueny in honour of the ghost of Yoah (Homestead No. VIII), Dol sacrificed a goat. Dol was a natural son of Luak who was related to Yoah.

XI

Something has been said about the relations between sons and "fathers" 588
in simple legal marriage, in ghost-marriage, in leviritic marriage, and in 593
widow-concubinage. It remains to say a few words about the relations between a *gat keaka*, a son of an unmarried concubine, and his pater (his genitor becomes such after he has paid a legitimatization fee). His position is very different from that of a *gat laka*, a son of a widow-concubine. "A *gat keaka* is your own son". So long as you are kind and generous to the boy he will not desert you, for you are both his genitor and his pater and if he deserts you he has no other "father" to whom he can go. Thus Karlual (Homestead No. IX) has two natural sons: Twong and Kong. At present they are living with their mother in Rengyan country. When Twong said that he wanted to go to his mother, Karlual without demur told his grown-up son, Tang, to take him to her, knowing that the boy would soon return, "Because he is old enough to know his father and when he returns he will not leave his father, for when his father kills an animal he will keep meat for him to eat and when food is served in the byre he will call his little son to eat with him". When I asked Panyuan whether the mother would also return he said: "She has gone to her brother's house and there another man will cohabit with her and if she has children by him she will remain with her children. But if she has no more children one day she will come back to Karlual, so that she may be with her sons."

Nevertheless, neither a *gat laka* (son of a widow-concubine) nor a *gat keaka* (son of an unmarried concubine) are so strongly bound to their genitors as a *gat ghok pany* ("a true child of cattle" i.e. a child born in the union of simple legal marriage). If a boy born of an unmarried con-

588 cubine is dissatisfied with his lot in his father's home, or if his father 593 dies, he may go to live with his mother's people, by whom he is often brought up before he is initiated into manhood. Thus Riek (Rwac) (Homestead No. XX) was brought up at his maternal grandfather's home and has only recently come to live in his father's homestead in order to be initiated there. I was told that he will continue to pay visits to his maternal grandfather's village, but that if he is satisfied with his pater's home he will make it his permanent village. As a matter of fact I received the impression from several small incidents that this particular boy was lonely and not at his ease with the other boys of his pater's kraal.

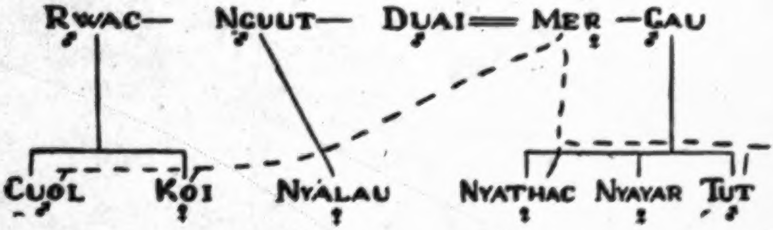

Diagram XI

On my first vist to Yakwac in Lou country a youth called Cuol was a member of the household of Cam, in whose byre he slept. Cuol was the son of an unmarried concubine called Mer ♀, the sister of Dar, the pater of Wia whose circumstances have just been related. Cuol was therefore living with his mother's people while his mother was living with her latest lover in Jikany country. Mer's history is so typical of the adventures of unmarried concubines that I show it in Diagram No. XI. She was first married by a man called Duai who divorced her before she conceived. She thus reverted to the status of an unmarried girl but instead of being married again she went to live with a lover, Nguut ♂, to whom she bore a daughter, Nyalau ♀, who has died. Mer ♀ then left Nguut ♂ and went to live with another lover, Rwac ♂, to whom she bore Cuol ♂ and Koi ♀. She then went to live with Gau ♂ at whose home she still resides. To Gau she has borne Nyathac ♀, Nyayar ♀, and Tut ♂. In 1931 Cuol was living at Yakwac where we always spoke of him after his mother's name: Cuol ♂—Mer ♀. Nevertheless, he often visited his mother and the people of Yakwac did not regard him as a full member of the hamlet since he possessed no cattle there and might at any moment go away to live with his mother and never return. This is precisely what [835] happened. In 1935 I missed him at Yakwac and was told that since he had had relations with a girl betrothed to Wia, and with whom Wia himself was having relations, he had not returned to the hamlet. Cuol's action was not only a breach of kinship standards but was also incestuous, since Wia was legally, though not biologically, his mother's brother's son.

husband may demand the return of his cattle and return 586
her to her father's village. Likewise, if the husband fails his wife in this respect, her people very probably will cancel the marriage and seek another husband for her. Representatives of both parties interested meet together and discuss the matter before the actual separation takes place.

One time, when asking a woman her name, I was 588
surprised to hear her give a woman's name as her surname. Upon inquiry I found that she considered this woman whose name she bore as her nominal father.

The older woman was unable to bear children, but she had a number of cattle, so she paid for a girl who was considered as her wife. She got a man to come and live with the girl in order to beget a child. Then the child when born was considered as belonging to its mother and to her. She might give the man a cow, but he would have no claim upon the child or its mother then or at any other time.

This woman had several 'wives' and a number of children. She was the central figure of authority in her village and was considered a good leader of her people. I had heard of her before, but had never met her. She seemed to be a competent, capable woman, well respected by those who knew her and by the Government official as well. Her face, her speech and her manner were utterly different from what one might expect to find in one who—according to our western standards—had allowed herself to sink to depths of degradation.

Instead, one saw a Nuer woman a little past middle age, matronly, capable, and kind in appearance. She in in her way had sought children—and found them—and she loved them and cared for them.

561 881 initiation. He is a *wut*, a man, whereas before he was one of the *dholi* (boys). He is now treated by his elders as a man and he has close contacts with the cattle; he herds them, has his own ox and takes an ox name. He goes to dances and indulges in love-making and flirting as the preliminaries to marriage.

561 764 582 Certain ritual observances are practised between members of the same age set, and between members of different sets: sets are segregated at sacrificial feasts; members of a set cannot bury an age mate or participate in the mortuary ceremonies; a man may not marry or have sexual relations with the daughter of an age mate, for he is as a father to her; a man should not marry a daughter of one of his father's age mates unless his or her father is dead, because the strained relations between the two fathers-in-law would be incompatible with the free and easy relations of equality which should exist between age mates.

561 Members of a junior set are expected to show respect to members of senior sets. Since every Nuer has an age relationship to every other Nuer, the attitudes and types of behaviour between two men are determined in advance of meeting, unless there is any particularly strong and overruling tie of kinship.

561 608 Relations between sets are defined in ordinary kinship terms. Members of a father's age set are fathers, their wives are mothers; members of one's own age set are brothers, their wives are sisters, and so forth. When speaking of a set immediately senior to his own, but not his father's, a man will call the men fathers-in-law and the women mothers-in-law, because he is usually courting the daughters of this age set in preparation for marriage.

MARRIAGE

582 Marriage is not permitted between clansfolk, close cognates, close kinsfolk by adoption, close affines or persons who stand to one another as father and daughter in the age-set system. If it is uncertain whether the genealogical distance between a couple is wide enough to permit marriage, a sacrifice (generally a beast) will be offered to cut the bonds of kinship if any exist.(1)

There are several types of marriage among the Nuer.

588 1. *Ghost Marriage*. If a man dies before he has married or if his wife does not bear him male children, one of his close kinsmen has the obligation of marrying a wife to his name, for it is held that no initiated male should be allowed to lie in his grave unremembered in his children. A vicarious marriage is contracted, and the vicarious husband acts as though he were the true husband in the marriage ritual. Evans-Pritchard states that "in physiological and in domestic roles he is husband, in all but the legal sense..... The legal husband is the ghost in whose name the bride cattle are paid and the marriage ritual performed."(2) The ghost family is a legal family and such families are almost as numerous as simple

(1) Evans-Pritchard, "Nuer rules of exogamy and incest", 1949, p.90.
(2) Evans-Pritchard, "Some aspects of marriage and the family among the Nuer", 1938, pp.308-9.

588 [610] families; it is only in question of descent and inheritance that the difference is seen. It is the dead pater's name which will survive in genealogies.

Ghost marriages are arranged on behalf of brother, paternal uncles, maternal uncles and fathers (i.e. physiological fathers who are not also paters). A man of a senior generation is not allowed to marry a wife to the name of a kinsman of a junior generation because the man would be both vicarious husband to the woman and her father-in-law. A man never marries a woman to the name of his father's father or his mother's father since that was the duty of their sons. Only a kinsman takes a wife to the name of a dead man. Occasionally a woman marries someone to the name of a dead kinsman, and the wife so married would cohabit with a stranger to raise up children for the ghost.(1)

587 611 2. *The Levirate.* When a husband dies, the children his wife may subsequently bear are still counted as the children of the dead man. It is held that the woman should live with one of the dead man's brothers for she was married with the cattle of their kraal. Whoever inherits the widow does not marry her; she is still the wife of the dead man, and the man with whom she lives merely acts as genitor. Children born of the union regard themselves as their pater's family and inherit from him and not from their genitor. Leviratic marriage is different from ghost marriage. In ghost marriage bridewealth is paid and the marriage rites are performed by the vicarious husband; in leviratic marriage the husband has already performed these actions and the brother or other male kinsman inheriting the widow merely enters, as pro-husband, a family already in being.(2)

Tradition, threat of divorce and social pressure, all persuade a young widow to live with her husband's brother or with a son by a co-wife. She has a certain amount of choice among the relatives available. If she prefers to go and live with lovers and to 'give birth in the bush', all children born are counted as those of her dead husband, and his lineage has legal rights over them. Some widows return to their parents' village and live with a man there.

587 3. *Widow Concubinage.* A widow living with a stranger after the death of her husband, is called a *cek ma lak* (widow concubine).(3) Her lover has no legal rights over her and cannot compel her to stay with him, nor has he any legal control over children born of the union. A man, a widow concubine and their children form a natural, as opposed to a legal, family, and the position of the genitor, though precarious, is acknowledged socially in several ways.

848 [611] 4. *Unmarried Concubinage.* A child of an unmarried woman has no pater but his genitor may become his pater on payment of a fee of 4 to 6 cattle to legitimise him. If the fee is not paid, the child belongs to the mother's lineage, and any man whom the mother cares to live with for the time being is regarded as his foster father. In certain respects the status 000

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(1) Evans-Pritchard, "Some aspects of marriage and the family among the Nuer", 1938, p.318.
(2) Evans-Pritchard, *op.cit.*, 1938, p.320.
(3) *Ibid.*, p.325.

In certain respects the status

588 of an unmarried mother is inferior to that of the mother for whom bridewealth has been paid,(1) but her position may be regularised at any time by payment of cattle to her lineage.

582 848 The rules of exogamy apply to simple legal marriages and to all other unions. Physiological paternity does not appear to be stressed by the Nuer, but what is important to them is that the legal parentage of a child should be well established. The various types of union practised give rise to various difficulties owing to the clash of interests which may occur when the legal pater of a child is not his genitor, or his foster father. These difficulties are least likely to arise in the simple legal family where sentiment and interests go together and inheritance is plain.

837 Adultery is not uncommon and, if it can be proved, the adulterer has to pay a fine of 6 cattle to the husband, except when a child has been born, for it seems that the adulterer has a claim on the child. If a man is caught in the act, he may be speared or clubbed.

BRIDEWEALTH

583 Instalments of the bridewealth are handed over by the bridegroom's family to that of the bride, *pari passu* with a series of ceremonial acts, until the union is completed by the birth of a child.

The ideal amount of bridewealth consists of 40 head of cattle, and of there 20 go to the father's side of the bride's family and 20 to the mother's side. The actual distribution in any particular marriage approximates as nearly as possible to the ideal distribution.(2)

The number of animals actually handed over is usually less than 40, but in all cases there is a minimum number without which marriage could not take place. Essential claims are settled at the first bridewealth discussion; those due to the maternal relatives have priority, as they represent a deferred payment standing over from the marriage of the bride's mother. Lengthy arguments take place over the remainder of the animals. Paternal and other kinsmen, whose relationship is not close enough to carry a title to a defined share of the bridewealth, may claim a small gift; the genitor of the bride has a right to a cow if he is not also her legal father.

Bridewealth has two main functions: in the first place it creates new social ties between persons and regulates their relations until these have become assimilated to kinship patterns; secondly, it determines the lineage affiliations of the children of the union.(3)

MARRIAGE CEREMONIES

584 A number of rites are necessary for the conclusion of a marriage, and the sequence of rites is linked with the transfer of cattle; thus, the performance of a given ritual is a recognition that the required number of

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(1) Evans-Pritchard, "Some aspects of marriage and the family among the Nuer", 1938, p.329.
(2) Evans-Pritchard, *Africa*, XVI, 1946, p.249.
(3) Evans-Pritchard, *African Studies*, XI.4, 1947, p.185.

but rather as names numbered, as it were, in the archives of the 613
lineage. They think of the dead continuing in this way in the 768
living. It is to ensure the survival of the dead in their names, Nuer 551
say, that they have the customs of the levirate, widow-concubinage, and ghost-marriage.

I have discussed these practices at length elsewhere,[1] and here 587
it is only necessary to show their connexion with the matter under 611
discussion. Nuer practise the true levirate. Widows are neither 551
remarried nor inherited but continue till death to be married 768
to their dead husbands to whose names they continue to bear children begotten by their dead husbands' brothers, with whom they have in certain circumstances an obligation to live. If, however, for one or other reason, a widow does not choose to live with one of her dead husband's brothers she may cohabit with any man she pleases, but all children such a widow-concubine may bear to
her lovers count as children of her dead husband. The custom of 588
ghost-marriage further ensures that every man must have a son 551
who will be called after him '*gat* so-and-so', 'son of so-and-so'. If a 611
man dies without a male heir and without leaving a widow to bear 768
him male heirs it is a paramount duty for his near kin to marry a wife to his name before they take wives in their own names. In theory at any rate, therefore, every man has at least one son and through this son his name is forever a link in a line of descent. This is the only form of immortality Nuer are interested in. They are not interested in the survival of the individual as a ghost, but in the survival of the social personality in the name.

The memory of a dead man is thus kept alive by its being con- 551
stantly on people's lips through the favoured patronymic usage 768
during the lifetime of his children and afterwards in the recita- 583
tion of a line of descent. This is why at a mortuary ceremony Nuer stress that a man who has died is not entirely finished. 'His children will carry on his name.' A dead man's name is also on people's lips in reference to bridewealth cattle. If a man has a right to cattle in the division of a girl's bridewealth he does not lose that right at death. Indeed, if he is dead he not only retains the right but his claims are given precedence, as being 'the right of a ghost', over those of the living. These cattle are *ghok jookni*,

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[1] 'Some Aspects of Marriage and the Family among the Nuer', *Zeitschrift für vergleichende Rechtswissenschaft*, 1938 (reprinted in *Rhodes-Livingstone Papers*, No. XI, 1945); also *Kinship and Marriage among the Nuer*, 1951, chaps. iii and iv.